

**CITY OF NEWARK
DELAWARE
COUNCIL MEETING MINUTES**

March 11, 2019

Those present at 5:45 p.m.:

Presiding:	Mayor Polly Sierer District 1, Mark Morehead District 2, Jerry Clifton District 3, Jen Wallace District 4, Chris Hamilton District 5, Jason Lawhorn District 6, Stu Markham
Staff Members:	Acting City Manager Tom Coleman City Secretary Renee Bensley Deputy City Secretary Tara Schiano City Solicitor Paul Bilodeau Acting HR and Labor Relations Manager Mark Farrall Finance Director David Del Grande NPD Chief Paul Tiernan Sergeant Greg D’Elia Parks and Recreation Director Joe Spadafino Planning and Development Director Mary Ellen Gray Planner Michael Fortner Acting Public Works and Water Resources Director Tim Filasky Director of Electric Bhadresh Patel

1. Ms. Sierer called the meeting to order at 5:45 p.m.

2. **EXECUTIVE SESSION:**

- A. Executive Session pursuant to 29 *Del. C.* §10004 (b) (1), (6) and (9) for the purpose of discussing an individual citizen's qualifications to hold a job, discussion of the content of documents excluded from the definition of public record in §10002 of this title where such discussion may disclose the contents of such documents and personnel matters in which the names, competency and abilities of individual employees are discussed
- B. Executive Session pursuant to 29 *Del. C.* §10004 (b) (4) and (6) for the purpose of a strategy session with respect to collective bargaining when an open meeting would have an adverse effect on the bargaining position of the public body and discussion of the content of documents excluded from the definition of public record in §10002 of this title where such discussion may disclose the contents of such documents
- C. Executive Session pursuant to 29 *Del. C.* §10004 (b) (4) and (9) for the purposes of a strategy session, including those involving legal advice or opinion from an attorney-at-law, with respect to pending or potential litigation, but only when an open meeting would have an adverse effect on the litigation position of the public body and discussing personnel matters in which the names, competency and abilities of individual employees are discussed.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: TO ENTER EXECUTIVE SESSION ON THREE TOPICS WHICH ARE FOR THE PURPOSE OF DISCUSSING AN INDIVIDUAL CITIZEN’S QUALIFICATIONS TO HOLD A JOB; FOR THE PURPOSE OF A STRATEGY SESSION WITH RESPECT TO COLLECTIVE BARGAINING; AND THE PURPOSE OF A STRATEGY SESSION INCLUDING THOSE INVOLVING LEGAL ADVICE OR OPINION FROM AT ATTORNEY-AT-LAW.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer, Wallace.
Nay – 0.

3. **RETURN TO PUBLIC SESSION**

A. Potential Votes Regarding City Manager Contract

0:28

Council exited Executive Session at 7:00 p.m. Ms. Sierer said there were motions from Executive Session.

MOTION BY MR. CLIFTON, SECONDED BY MR. LAWHORN: THAT THE CITY MANAGER'S CONTRACT BE APPROVED AS PRESENTED AND THAT THOMAS COLEMAN BE APPOINTED AS CITY MANAGER.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer, Wallace.
Nay – 0.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: THAT THE CITY WAIVE THE REQUIREMENT THAT THE CITY MANAGER, THOMAS COLEMAN, RESIDE WITHIN THE CITY OF NEWARK.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer, Wallace.
Nay – 0.

There were no comments from the table or public.

Ms. Sierer congratulated Mr. Coleman on his appointment to City Manager.

4. B. POTENTIAL VOTE REGARDING EXPENSES RELATED TO AN EMPLOYEE ON-THE-JOB INJURY CASE

1:26

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: THAT THE CITY SOLICITOR AND SPECIAL COUNSEL KLUSMAN BE AUTHORIZED TO NEGOTIATE A SETTLEMENT WITH THE EPPS' ATTORNEY REGARDING MEDICALLY NECESSARY RENOVATIONS TO THE EPPS HOME, ALONG THE PARAMETERS DISCUSSED IN THE EXECUTIVE SESSION.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer, Wallace.
Nay – 0.

5. Ms. Sierer requested Council to consider removing item 9-C as the title of the Ordinance stated it was to permit a right turn on red when it was supposed to prohibit it. Ms. Sierer noted the item needed to be re-advertised and brought back to Council at a later date.

MOTION BY MR. MOREHEAD, SECONDED BY MR. LAWHORN: TO REMOVE ITEM 9-C FROM THE AGENDA.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer, Wallace.
Nay – 0.

Ms. Sierer polled the audience to see how many were present for the Unruly Social Gathering Ordinance.

MOTION BY MR. HAMILTON, SECONDED BY MR. CLIFTON: TO MOVE UP ITEM 9-D TO FIT IT IN AFTER ITEM 5-D.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer, Wallace.
Nay – 0.

6. Ms. Sierer asked for a moment of silence and the Pledge of Allegiance.

7. 1. **PUBLIC PRESENTATIONS:** None.

8. 2. **ITEMS NOT ON PUBLISHED AGENDA**

A. Elected Officials who represent City of Newark residents or utility customers:

3:28

State Representative John Kowalko referenced the resolution on the agenda regarding potential charter changes regarding “one-person, one-vote.” If Council adopted the resolution, Representative Kowalko would take a copy to Legislative Hall and provide it to the legislative attorneys to craft a bill. He informed Council he would get back to them as soon as possible if there were changes that needed to be made and announced he would draft legislation with others such as Representative Paul Baumbach. He thanked Council for their efforts on this matter and told them to keep up the good work.

9. 2-B. **UNIVERSITY**

(1) Administration

4:34

Ms. Olsen announced the second Off-Campus Housing Fair was scheduled for Monday, April 29th, 2019 from 11:00 a.m. – 2:00 p.m. at the Perkins Student Center. Each property group would be provided with a covered table and were encouraged to bring information. Ms. Olsen said landlords who were interested in participating in the event should reach out to her. She expressed the last Off-Campus Housing Fair was successful and looked forward to the event. Ms. Olsen said students celebrated a day of service in honor of Dr. Martin Luther King, Jr., in February. Approximately 150 student volunteers gathered for the day and worked with the City’s Parks and Recreation Department, Urban Promise Wilmington, South Wilmington Planning Network and several others. Ms. Olsen stated students participated in the day. She said Student Life had many events planned for St. Patrick’s Day weekend and University police would increase patrols.

Ms. Sierer opened discussion to the table.

Mr. Clifton asked Council and staff to develop a spreadsheet to document questions or items they wished to pursue. He hoped the spreadsheet would include a suspense date and might help to control miscommunications on the part of the City and University. Mr. Clifton thought the spreadsheet should be available online so both the public and Council could access it. Mr. Clifton asked Ms. Olsen if she would be willing to take on this task and would put the list together for Council.

10. 2-B-2. **STUDENT BODY REPRESENTATIVE:**

07:50

Meghan Mullennix, Student Government Representative, said the Bombshell movie was scheduled for 7:00 p.m. – 10:00 p.m. on Monday, March 18, 2019 as part of the History Department’s Women in Film series. Ms. Mullennix explained the movie depicted Hollywood Movie Star Hedy Lamarr. She expressed Ms. Lamarr had great technological innovations that were not recognized during World War II until very recently. Ms. Mullennix reminded the audience all movies in this series were shown at 004 Kirkbride Hall.

Shamrock Fest was scheduled for Saturday, March 16, 2019. Ms. Mullennix commended Ms. Olsen and University administration for their efforts regarding Shamrock Fest, as she believed it was a wonderful alternative activity in the student centers.

Shannon Fredericks, Student Government Representative, said UDance was scheduled for Sunday, March 24, 2019. Ms. Fredericks described UDance as a huge, philanthropic effort supporting the B+ Foundation. She announced everyone on campus was excited for the event and participated in numerous fundraising efforts. Ms. Fredericks said mid-term season was approaching. The Student Government Association’s (SGA) elections were expected to take place in April.

Ms. Sierer opened discussion to the table.

Mr. Clifton questioned whether donations for UDance could be made in front of the National 5 & 10 and Ms. Fredericks confirmed this was the case.

11. 2-C. **CITY MANAGER:**

9:42

Mr. Coleman thanked Ms. Sierer and Council for their decision to appoint him as Newark’s City Manager. He said March 18, 2019 was the voter registration deadline. In order to vote, people must be registered to vote in the State of Delaware, must live within the corporate limits of Newark and must be

at least 18-years old to register to vote in the City-wide election. Mr. Coleman directed people to contact the City Secretary's Office if they had questions about voter eligibility.

12. 2-D. COUNCIL MEMBERS:

10:10

Mr. Clifton:

- Mr. Clifton asked Mr. Coleman if he had any updates regarding the emergency notification system. Mr. Coleman spoke with the Fire Marshall who coordinated with the Fire Department and NCC's OEM to notify him of major incidents. The Fire Marshal told Mr. Coleman he would pass the notice along to the City's Communication's Department and the NPD's Public Information Officer. Mr. Coleman thought major events would be distributed through the InformMe system and minor events through social media platforms.

Mr. Markham:

- Mr. Markham asked Mr. Coleman when the information regarding restaurants who participated in the parking validation program would be presented to Council. Mr. Coleman planned to have the update scheduled for the first meeting after the election.
- He referenced the fact traffic counts used to be provided to Council by DelDOT for development projects. He thought traffic counts and sampling should take place for existing developments (i.e. Cleveland Avenue or One Easton) and different property types throughout the City. Mr. Markham requested this traffic data as he thought it was useful for the City's development. Mr. Coleman said One Easton was a prime candidate for a traffic count as it was a closed environment with one entrance and exit point. Mr. Coleman discussed the traffic count/sampling with Ms. Gray and Mr. Filasky.

Mr. Morehead:

- Mr. Morehead announced the candidates for Council Districts 1 and 2 were scheduled to debate at 6:15 p.m. on March 19, 2019 at the Newark Senior Center. The mayoral candidates were scheduled to debate at 7:30 p.m. Mr. Morehead said the League of Women Voters of NCC sponsored the event with the Newark Senior Center. He encouraged the audience to look up the American Association of University Women and highlighted their accomplishments.

Mr. Hamilton:

- Mr. Hamilton reminded the audience to vote in the City-wide election on April 9, 2019. He said voting was available between 7:00 a.m.- 8:00 p.m. and said details (i.e. where people went to vote) were provided on the City's website.

Mr. Lawhorn:

- Mr. Lawhorn attended Christiana School District's (CSD) meeting which discussed the set-up for the referendum. He encouraged the audience to educate themselves regarding the referendum to make informed decisions. Mr. Lawhorn believed the City's referendum in 2018 was successful and shared information with CSD. He thought the referendum was well-run and residents were properly informed.

Ms. Sierer:

- Ms. Sierer said there were several Code Purple nights last week (week of March 4, 2019). There were approximately eight to nine churches on rotation that welcomed the homeless into their buildings when the temperature went below 21 degrees. Ms. Sierer said there were 15-20 guests each Code Purple night in 2019. Code Purple nights included both men and women. Women made up 1/3 of the program's guests. Ms. Sierer commended the University's Dining Services for their contribution to Code Purple as they provided dinner and breakfast to the churches for the homeless. She thanked the Courtyard Marriot on New London Road for providing laundry service for the churches. Ms. Sierer also thanked the Newark Retirement Center and NPD for their assistance. She announced there was a death last year due to cold weather and emphasized it was important to help the community.

13. 2-E. PUBLIC COMMENT:

18:25

John Morgan, District 1, thought both the NPD and UDPD said their departments could not get rid of unruly behaviors through arrests. Dr. Morgan believed the University was responsible to ensure the students kept busy with homework. He thought students were less likely to get in trouble at parties if they were occupied with homework. Dr. Morgan attended an open hearing earlier today where a grade forgiveness policy was discussed. The policy discussed not counting low grades of Ds or Fs into freshman students' grade point average. Dr. Morgan thought this policy was okay for students in certain issues; however, he believed some students might take advantage of this. He thought the University's leadership could be better on this issue. Dr. Morgan expressed surprise when a member of the University's Board of

Trustees was quoted in National Legal Publications that Animal House was one of his favorite movies. He thought it should not be a surprise that the University was ranked by the Princeton Review as the #1 Party School.

Mr. Clifton asked Ms. Olsen to speak at Council meeting on March 25, 2019 regarding the impact of the grade forgiveness policy.

Representative Kowalko, 14 Kells Avenue, said his comments were made as a citizen of the City of Newark. He personally experienced problems with the City's parking; specifically, parking was drastically reduced with new development. Representative Kowalko asked Council to consider the parking issues associated with parking waivers and new development.

Al Porach, District 2, said he saw the movie Animal House. Breaking Away was Mr. Porach's favorite movie. Breaking Away was the story of a young man who lived in Bloomington, Indiana and attended the university. Mr. Porach said the movie portrayed conflicts between counties and students. He recently had trouble obtaining the City's crime maps through the geographic information system (GIS). Mr. Porach asked for clarification and assistance regarding access to the City's crime maps. Mr. Coleman was not aware of current issues with the City's crime maps. Mr. Porach used to access crime reports for neighborhoods in the City and said he would discuss this in detail later regarding the Unruly Gathering Ordinance.

Catherine Ciferni, District 2, discussed the concept of transportation and the ability to navigate Main Street effectively. Ms. Ciferni thought successful navigation was important for cycling, walking and vehicle use. She asked the University to evaluate the East Loop Route as she thought it did not flow well. Ms. Ciferni thought this issue would increase as Main Street became more crowded. She thought it was difficult for bus drivers to identify people who waited for the bus. Additionally, Ms. Ciferni said bus drivers did not stop for riders on Main Street since it was hard to identify them. Ms. Ciferni believed recent development in the City consisted of buildings with retail on the bottom and apartment units on top. She stated this design was an urban model, similar to methods used in Chicago and New York City. Ms. Ciferni thought this model permitted density in urban areas. Ms. Ciferni said Newark did not have a comprehensive transit system like Chicago and New York City. For this reason, she believed Newark should come up with other transportation options in order to successfully increase its density. Ms. Ciferni believed bikes were used more frequently and stated the City needed to provide an appropriate amount of bike parking spots.

14. 3. APPROVAL OF CONSENT AGENDA:

- A.** Approval of Council Minutes – February 25, 2019
- B.** Receipt of Planning Commission Minutes – February 5, 2019

28:01

Ms. Schiano read the consent agenda into the record.

MOTION BY MR. MARKHAM, SECONDED BY MS. WALLACE: TO APPROVE THE CONSENT AGENDA AS PRESENTED.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer, Wallace.

Nay – 0.

15. 4. ITEMS NOT FINISHED AT PREVIOUS MEETING: None.

16. 5. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:

- A.** Reappointment of Sydney Goldberg to the At-Large Position on the Election Board for a Three-Year Term to Expire March 15, 2022

28:01

Ms. Sierer brought Sydney Goldberg, District 1, forward to for reappointment to the Election Board for a three-year term. She announced Mr. Goldberg lived in Newark for 51 years and was interested in serving another term.

MOTION BY MS. SIERER, SECONDED BY MR. MOREHEAD: TO APPOINT SYDNEY GOLDBERG TO THE AT-LARGE POSITION ON THE ELECTION BOARD FOR A THREE-YEAR TERM TO EXPIRE JANUARY 15, 2022.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer, Wallace.
Nay – 0.

17. 5-B. APPOINTMENT OF MARY CLARE MATSUMOTO TO THE DISTRICT 6 POSITION ON THE CONSERVATION ADVISORY COMMISSION FOR A THREE-YEAR TERM TO EXPIRE MARCH 15, 2022

29:25

Mr. Markham brought Ms. Matsumoto forward for appointment to the Conservation Advisory Commission for the District 6 position.

MOTION BY MR. MARKHAM, SECONDED BY MS. WALLACE: TO APPOINT MARY CLARE MATSUMOTO TO THE DISTRICT 6 POSITION ON THE CONSERVATION ADVISORY COMMISSION FOR A THREE-YEAR TERM TO EXPIRE MARCH 15, 2022.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer, Wallace.
Nay – 0.

18. 5-C. REAPPOINTMENT OF THEODORE R. ELDER, JR., TO AN AT-LARGE POSITION ON THE COMMUNITY DEVELOPMENT REVENUE SHARING ADVISORY COMMISSION FOR A THREE-YEAR TERM TO EXPIRE MARCH 15, 2022

30:26

Ms. Sierer announced the reappointment of Ted Elder to an at-large position on the Community Development Revenue Sharing Advisory Commission. She said Mr. Elder was a resident of Newark for 30-years and lived in District 5. Ms. Sierer informed the audience Mr. Elder did not attend the meeting.

MOTION BY MS. SIERER, SECONDED BY MR. LAWHORN: TO REAPPOINT THEODORE R. ELDER, JR., TO AN AT-LARGE POSITION ON THE COMMUNITY DEVELOPMENT REVENUE SHARING ADVISORY COMMISSION FOR A THREE-YEAR TERM TO EXPIRE MARCH 15, 2022.

MOTION PASSED. VOTE: 6 to 1.

Aye – Clifton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – Hamilton.

19. 5-D. APPOINTMENT OF HELGA HUNTLEY TO THE DISTRICT 1 POSITION ON THE CONSERVATION ADVISORY COMMISSION FOR THE THREE-YEAR TERM TO EXPIRE MARCH 15, 2022

31:23

Mr. Morehead brought Ms. Huntley forward for appointment to the Conservation Advisory Commission (CAC) for the District 1 position. He knew Ms. Huntley for quite some time and described her as an active member of Newark’s community. Mr. Morehead believed Ms. Huntley’s skillset qualified her to serve on the CAC in addition to how she and her family lived their lives. He announced Ms. Huntley’s involvement on the Sustainability Steering Committee and stated she co-chaired BikeNewark. Mr. Morehead said Ms. Huntley was involved in Downes Elementary School’s Safe Routes to School and PTA programs. He informed the audience Ms. Huntley worked for the University’s Marine Science and Policy Program.

MOTION BY MR. MOREHEAD, SECONDED BY MS. WALLACE: TO APPOINT HELGA HUNTLEY TO THE DISTRICT 1 POSITION ON THE CONSERVATION ADVISORY COMMISSION FOR A THREE-YEAR TERM TO EXPIRE MARCH 15, 2022.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer, Wallace.
Nay – 0.

Ms. Sierer announced item 9-D would occur next on the agenda.

20. 9. ORDINANCES FOR SECOND READING & PUBLIC HEARING:
D. Bill 19-05 – An Ordinance Amending Chapter 22, Police Offenses, Code of the City of Newark, Delaware, By Creating a Violation for Unruly Social Gatherings

33:29

Sgt. D’Elia announced changes were made to the Unruly Gathering Ordinance since his last presentation to Council. Subsection (a) primarily dealt with alcohol related offenses and the substance of this section did not change. Sgt. D’Elia said there needed to be four people present for the violation to occur. He informed the audience there would be a civil violation as opposed to criminal. Alcohol offenses in addition to other behaviors (i.e. people on a roof, 150 people in a yard, noise violations, disorderly premise and other laws already on the books). Sgt. D’Elia said blocking or disrupting traffic on sidewalks and the street were examples of violations that would trigger the Ordinance. Reckless burning, fireworks, or other public safety matters were included as a catch-all for unruly behaviors in the Ordinance. Sgt. D’Elia announced the violation of the Ordinance would be charged similar to Aggressive Driving. The Ordinance would not replace any current laws and would help the police have more impact with higher penalties and community service.

Ms. Sierer opened discussion to the table.

Mr. Hamilton thanked everyone who helped develop the Ordinance. He said NPD, landlords, NPD, University were involved in the process. Mr. Hamilton appreciated the support from the Landlord’s Association and thanked City staff for their assistance.

Ms. Wallace thanked everyone involved in this effort and believed it demonstrated community engagement and involvement. She thanked the NPD for their efforts and assistance. Ms. Wallace asked for a status report for the 2019 school year if the Ordinance passed this evening. She thought a status report would help determine whether the Ordinance was useful and how much it was utilized. Sgt. D’Elia planned to track the information and provide a report to staff.

Mr. Markham questioned whether Sgt. D’Elia would reach out to University student organizations to ensure they understood the details if the Ordinance passed. Sgt. D’Elia said a letter was drafted with the University of Delaware Police Department (UDPD) and would be sent out via email to students as soon as both agencies approved it. He informed the audience information would be disbursed through the NPD’s social media accounts for residents who may be affected by the Ordinance. Sgt. D’Elia planned to meet with the University’s Interfraternity Council (IFC) group on March 12, 2019 to make them aware of the Ordinance. Mr. Markham asked Sgt. D’Elia to reach out to the Homeowner’s Association since he thought the Ordinance would affect more than student rental areas.

Mr. Clifton hoped for a broad distribution of information. Sgt. D’Elia confirmed this was the case and clarified the Ordinance was City-wide and applied across the board.

Mr. Lawhorn believed the communication plan was on track. He thought the intent of the Ordinance was for students to stop unruly parties and bothering residents. Mr. Lawhorn believed communication for students would stop them from having parties in the first place. He thought the phrase “alcohol is made readily available to persons under 21-years old without impediment” was vague. Mr. Lawhorn thought a case of beer on a table at a picnic would violate this order. Sgt. D’Elia said this was not necessarily the case as two additional violations were required to trigger an Unruly Gathering. Mr. Lawhorn understood the intent of the Ordinance; however, he believed the language of the Ordinance did not reflect the intent. Mr. Lawhorn agreed with the rest of the Ordinance and commended the Newark Civic Association and City staff for their efforts. He said non-student residents expressed concern regarding the violation for making alcohol readily available to persons under 21-years of age without impediment.

Ms. Schiano read Bill 19-05 into the record.

MOTION BY MR. CLIFTON, SECONDED BY MS. WALLACE: THAT THIS BE THE PUBLIC HEARING AND SECOND READING FOR BILL 19-05.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.

Nay – 0.

Ms. Sierer opened the discussion for public comment.

Talia Brookstein, non-resident and University student, asked Council how they thought Bill 19-05’s passage would affect University students and why they would vote for or against it. Mr. Clifton said he would wait to address this question after public comment.

Allan Carlsen announced he was a student at the University majoring in Chemical Engineering and was the president of the University's Interfraternity Council (IFC). Mr. Carlsen stated Colin McKenna ceded his time, allowing him to speak for six-minutes. He thanked the NPD for the work they tirelessly completed each day. Mr. Carlsen thought many people his own age overlooked the NPD's efforts. He commended the citizens of Newark who graciously welcomed University students into the community each year. Mr. Carlsen said the City offers a rich history which impacts students to return to the University and Newark as alumni. He supported the Ordinance's intention and said there were many parties on campus that were problematic and rose to unacceptable levels of disruption. Mr. Carlsen said the IFC as a governing body supports the actions that hold individuals accountable for unruly behaviors. He took issue with the proposed Ordinance because he thought the definition was a culmination of other violations. Mr. Carlsen thought it appeared the City would charge an individual twice for the same mistake. He did not object to a proposal which sought to increase fines of violations already in place (i.e. noise violations, disorderly premise etc.). Mr. Carlsen said NPD told Mr. Lawhorn at the January 28, 2019 Council meeting that the primary benefit of the Ordinance was the inclusion of landlords and its enforcement and framework. After the Ordinance was introduced, Mr. Carlsen said the City of Newark stakeholders met and removed all language related to landlords from the Ordinance.

Mr. Carlsen questioned why the City continued to pursue the Ordinance and thought it would be beneficial to improve laws that already were on the books. He thought increasing fines and creating community service requirements would appropriate to address violations such as trash violations, under-age drinking, and disorderly premise. Mr. Carlsen thought the Ordinance set a low threshold to be met. He thought an assemblage of four or more persons at a private property essentially includes most residencies based on paying tenants alone. Mr. Carlsen believed this number was unrealistic and expressed support for realistic solutions. He thought the Ordinance's language gave discretionary power to the NPD. Mr. Carlsen worried the Ordinance would unfairly target a certain class of people. He appreciated Sgt. D'Elia's clarification that the Ordinance was City-wide and was not limited to students. Mr. Carlsen thought the Ordinance created grey areas and asked people to vote against it. He asked Council to allow the public additional time to discuss the real implications associated with the Ordinance. He asked the City to weigh students' concerns equally to stakeholders. Mr. Carlsen believed Newark's economy depended on students' support of businesses in the City. He said his parents previously owned a food chain on Main Street and understood business was slow when students were not around. Mr. Carlsen's friends thought his comments and attendance at the Council meeting would make him a target. He told his friends it was important to make his voice heard, even if speaking up put him in an uncomfortable position. Mr. Carlsen thanked the members of Council who responded to his email and said Mr. Hamilton suggested Mr. McKenna to cede his time. He said the IFC attempted to work with the NPD because they wanted a better relationship between both parties.

Ms. Sierer thanked Mr. Carlsen for expressing his concerns and thought it was a great idea for the NPD and IFC to work together.

Amy Roe, District 4, was concerned with the volume of the buzzer for public comment. She supported the Ordinance and thought NPD's presentation was part of a fully transparent and integrative process. Dr. Roe thought the proposed Ordinance would restore some normalcy into the neighborhoods that were bombarded by super parties. She thought the University's elimination of on-campus housing would increase the negative impact of super parties in additional neighborhoods. Dr. Roe appreciated NPD and Sgt. D'Elia's outreach to the Old Newark Civic Association (ONCA) and the City's student and non-student residents. She believed the NPD's early presentation provided ample opportunity for student and community feedback and involvement. Dr. Roe was currently reading a book called "Party School: Crime, Campus and Community" by Karen G. Weiss, sociology professor at West Virginia University. Dr. Roe said the book describes how specific conditions culminate in the creation of a party school; moreover, how it negatively impacts neighbors and the off-campus community.

Dr. Roe thought her neighborhood mirrored the neighborhoods described in the book. She said extreme binge drinking and reckless partying were normalized to the extent students and the University were unable to see or respect the impact of their behaviors. Dr. Roe expressed the University ranked #1 as the nation's lead party-school, Hard Liquor and Greek Life. She believed the University achieved the #9 ranking for beer. Dr. Roe thought Newark needed new and better tools to prevent a disastrous outcome for Old Newark. She thought the Ordinance was a step in the right direction and believed it was only the beginning. Dr. Roe thanked the NPD for their willingness to work toward controlling the super party situation. She hoped Council would support the Ordinance and continue to work with the public to address the impacts related to living among the nation's #1 Party School.

Meghan Mullennix, Student Government Representative, said Ms. Fredricks ceded her time so she would speak for six minutes. She appreciated Council and City staff's hard work, communication and

community engagement. Ms. Mullennix was disappointed with the Ordinance's development and outcome. She agreed everyone wished to improve the quality of life throughout Newark. Ms. Mullennix thought the Ordinance addressed a proximate cause and did not address the root cause of the City's problems. Ms. Mullennix thought there was not sufficient outreach to students in the process and thought the lack of communication could lead to negative consequences. She was concerned the words transient and problem population referred to students and the words resident, community, and stakeholder commonly – not intentionally – excluded students from the public body. Ms. Mullennix thought Mr. Carlsen's earlier statement about feeling like there was a target on his back were applicable. She stated students frequently declined to come to Council meetings because they also thought they would be targeted. Ms. Mullennix did not believe the City was out to get students; however, this rhetoric persisted and was common. She thought it would be difficult for students and Council to establish respectful relationships if these misconceptions continued.

Ms. Mullennix was concerned the legislation would imply that students who were not residents or present could be held responsible for an Unruly Social Gathering. She thought the legislation's implications were vague and questioned its legality. She believed Towson's ordinance did not decrease crime or increase public safety since it passed in 2017. NCCPD and UDPD reported there were several categories of crime – including violence against women, motor vehicle accidents, and battery– that increased consistently in 2017 or 2018. Ms. Mullennix said University data showed no decrease in drinking or off-campus incidences of misbehavior. She believed citations of this matter were handed out less in recent years. Ms. Mullennix said Towson's and Newark's Ordinances cited public safety as the goal; however, she believed evidence should be provided that substantiated increased public safety. She did not believe the challenges to quality of life in this matter were not a result of worse behavior by students. Ms. Mullennix thought the Ordinance needed to identify the root cause of community suffering. She thought expanding internships in the City and events like "Meet the Neighbors" would address the root cause of problematic behaviors. Ms. Mullennix thanked Mr. Lawhorn for referring to students as stakeholders; however, she thought landlords were mentioned more frequently by Council members. She asked for inclusion and communication for students. Ms. Mullennix thought increased communication with students would help prevent inaccurate information and misunderstandings about Council's intentions. She believed additional outreach to students would address the root cause of problematic behaviors.

Georgia Wampler, 39 East Park Place, said her neighborhood experienced significant problems due to parties and rental properties. For this reason, Ms. Wampler expressed the Old Newark Civic Association (ONCA) was created. In the past, Ms. Wampler said NPD's advice was to move out of Newark because the party situation would not improve. She commended the NPD for their current proactive work on the Ordinance to address the problematic party situation and make the community a better place to live.

Catherine Ciferni, District 2, said she attended the Council meeting on January 28, 2019 where the Ordinance was discussed. She believed the Ordinance was primarily focused on super parties that were not necessarily isolated to student populations. Ms. Ciferni thought the conversation tonight revealed the effect of dissolving Newark's Town and Gown Committee. She said the Town and Gown Committee was a place where students and residents came together. Ms. Ciferni believed students and residents did not come together as they had in the past. She was concerned with the fact students might consider the Ordinance as the City's infringement on their right to party. Ms. Ciferni thought this might create a rift. She thought Council should explain to the students why they felt the Ordinance was appropriate. Ms. Ciferni believed students should be able to adequately fulfil what they thought was a need to party. Additionally, she thought the media portrayed partying as a collegiate rite of passage. Ms. Ciferni thought there needed to be a reckoning between the lifestyles of college students and residents. If the students and residents could not be brought together for mediation, Ms. Ciferni doubted the Ordinance would be as effective as Council hoped for it to be.

Ms. Ciferni thought students would pay fines associated with the Ordinance if they had the money to do so. In addition to the Ordinance, Ms. Ciferni believed conversation needed to be established and recommended the reestablishment of the Town and Gown Committee. She hoped residents and students would grow from each other.

Ron Walker, 45 Kells Avenue, advocated for Ordinance's passage. Mr. Walker said he lived at the corner of Kells and Wollaston Avenues for 50 years. He watched progressive deteriorating conditions between the University students and his quality of life. Mr. Walker thought the Ordinance was a terrific move to address this issue. He asked Council to either pass or reject the Ordinance and did not want the issue tabled. Mr. Walker thought Old Newark desperately needed the Ordinance and thanked the NPD for their hard work with the ONCA.

Albert Porach, District 2, was experienced in dealing with unruly residences. He referenced an old Supreme Court Decision regarding pornography where the justice said, "I may not be able to define pornography, but I know it when I see it." Mr. Porach stated he was unable to define an Unruly Premise; however, he knew it when he saw it. He said there was an unruly residence across the street from his residence for many years. Mr. Porach expressed the issue was resolved when the NPD cited the residence and brought the case into Alderman's Court. He said it was difficult to find out when the case would come up. Mr. Porach announced the case resolved without explanation when he went to testify. He hoped residences that were cited as unruly gatherings would be included in the City's GIS crime mapping system. Mr. Porach thought it was difficult to follow cases through Alderman's Court. He thought Council should ask students who came to testify whether they lived in the dorms. Mr. Porach believed the students in the dormitories fell under the University's Code of Student Conduct, which he thought was strict. He thought the Code of Conduct also applied to students who lived off-campus. Ms. Sierer thanked Mr. Porach for his concerns regarding the crime reports and said Mr. Coleman would reach out to him.

John Williams, non-resident, helped coach the University's rowing team. He also acted as a pro-bono attorney when the rowing team had problems. Mr. Williams thought the system and Ordinance took good kids and turned them into criminals. While he understood the need for the Ordinance, Mr. Williams said it did not change students' behaviors. Mr. Williams thought changing the amount for fines did not always change student conduct; moreover, it determined who would carry the cost of it. He thought it was difficult for students to pay fines as he believed they spent a lot of money to attend the University. Mr. Williams was concerned with the Ordinance as the four-person limit was established; specifically, how broadly it would be construed by NPD.

Helga Huntley, District 1, thought Ms. Mullennix provided good thoughts during her comments regarding the proposed Ordinance. Ms. Huntley echoed Ms. Mullennix's statement that residents and students were frequently discussed as being on opposite sides. She considered all students who lived in student rental properties residents of Newark. Ms. Huntley thought it was important for the public to realize many students were also residents of Newark; therefore, she believed efforts should be made to stop divisive rhetoric between those two groups. She was surprised since she thought there was no outreach to student groups or the Interfraternity Council (IFC). Ms. Huntley expressed the City should reach out the IFC as they were stakeholders. She thought it was important to realize Newark's laws applied to residents and students. Ms. Huntley thought students had a stake in what occurred at the City. She hoped Council and staff would apply some of the suggestions from Ms. Mullennix on how to improve the relationship between non-students and student residents in the City.

Kasai Guthrie, District 1, thought the same Ordinance was presented to Council on December 13, 2007. Mr. Guthrie believed Council at the time proposed a Bill that would change the definition of a private social gathering. He said the threshold for the number of people that made up a private party would have been lowered from 250 people to 150 people. Mr. Guthrie stated the proposed Bill on December 13, 2007 subjected tenants who failed to obtain a permit to a \$200 fine for the first offense. For the second offense, Mr. Guthrie believed tenants could be evicted from their rentals for a second offense. It was Mr. Guthrie's opinion the Ordinance on December 13, 2007 was presented after complaints about Chapel Fest. Mr. Guthrie said Chapel Fest was a party that attracted several thousands of students to the backyards of homes along Chapel Street. He said students and Council came to a compromise which decreased the number of students from 250 to 150; additionally, the tenant eviction section was deleted from the Ordinance. Mr. Guthrie alleged Council and students both believed the NPD should more strongly enforce existing laws for noise violations and disorderly conduct before the City enacted new legislation.

If Council approved the Ordinance tonight, Mr. Guthrie believed the NPD failed to enforce existing laws as he claimed there had never been another incident as large as Chapel Fest. Mr. Guthrie thought it was important to maintain a peaceful quality of life throughout Newark's neighborhoods. He believed passing the Ordinance would do more harm than good. Mr. Guthrie thought Newark had a higher percentage of people living in poverty than the City of Wilmington. He believed the majority of students and residents could not afford \$500 fines. Mr. Guthrie claimed Delaware was one of the few states in the nation where people could go to jail for not paying court fines on time. He also alleged community service hours would be difficult for students to complete because of their school schedules. Mr. Guthrie announced the University's Greek Life donated millions of dollars to organizations and contributed thousands of community service hours. He purported the Ordinance would destroy Newark's Ride-Share economy, forcing drivers – some of who were Newark residents – to drive to other towns such as West Chester and Philadelphia to earn their money. Mr. Guthrie thought there was a narrative which claimed student did not disburse because they wished to hang out after parties. He thought sexual assault crime increased every year in Newark and claimed women were forced to use Uber.

Mr. Guthrie believed the Ordinance would target one demographic which he claimed was unconstitutional if it was unfairly enforced. He thought Council should refer to previous decisions they made regarding neighborhood parties. Mr. Guthrie thought students should be provided with other outlets in order to solve issues with partying in residential areas. He announced someone yielded their time to let him speak. He thought parties were the only outlets for students in Newark because there were no nightclubs or night life. Mr. Guthrie believed this was the reason Newark was ranked as the #1 Party School in America. He thought Newark would implement the same Ordinance used by Towson; however, Mr. Guthrie said Towson was different since it had an under 21-night club as well as bars that closed at 3:00 a.m. and were fifteen minutes away from Baltimore, Maryland. Mr. Guthrie alleged Council made decisions that favored one demographic in Newark. He thought there was hard evidence and decisions made by Council which revealed residents and students who rented had less right than property-owners in Newark. Mr. Guthrie asked for Council and NPD work closely with UDPD and the IFC to come up with a plan to enforce existing laws and educate students on living closely with neighbors. He thought many students were unaware of the fact they lived in close proximity to families with children.

Mr. Guthrie thought Council should revisit its laws and codes that prevented businesses in the downtown areas to stay open later. He thought such laws prevented musicians and businesses in the City who hoped to target the younger demographic. Mr. Guthrie believed perspective revenue for the City was destroyed by the current laws and thought parents would agree with him that they would prefer their children to party in establishments instead of fraternity basements. He asked Council and residents to focus on the lead contamination issue at the Windy Hills Water Tower and sexual assault crime – which he thought increased yearly in Newark – with the same energy that was applied to the Ordinance. Mr. Guthrie said he previously met with the NPD and multiple fraternities and was in the process of setting up a town hall meeting to get both parties on the same page.

Frank Stallworth, resident, said he was an Uber driver and lived in Newark for his entire life. He drove for Uber in Newark and Philadelphia for over a year. Mr. Stallworth thought it was a problem when there was a big party and Ubers came for each individual person. He suggested Newark should utilize Uber areas like Christiana Mall, allowing Uber drivers to park while they waited for students. Mr. Stallworth thought this would alleviate traffic blockages on small, highly travelled roads. He described the party-scene in Newark around 2004 as huge, especially, when the University won the NCAA Football Championship. Mr. Stallworth said people used to get together for block parties and there were not many issues associated with these gatherings. He thought the Ordinance was crafted without discussion and input of all parties involved in Newark. Mr. Stallworth said the Ordinance was not limited to Old Newark and included a variety of people and organizations. He thought the Ordinance would hurt Newark's economy if it passed; moreover, most of Newark's Uber drivers depended on income related to picking students up from parties. Mr. Stallworth thought Uber drivers performed a necessary community service so students would not be required to walk home intoxicated. He thought it was important for all parties to come together and discuss the Ordinance in a calm and reserved manner. Mr. Stallworth emphasized all parties desired a better Newark that worked well for everyone.

John Morgan, District 1, spoke as resident who lived in Newark since 1981 and did not speak in any official capacity for the University. Dr. Morgan thought it was hard to justify the Ordinance's definition of an Unruly Social Gathering as an assemblage of four or more persons. He stated four was a small number; additionally, he did not think it would be effective in addressing issues related to super parties. While he acknowledged smaller groups of people could cause noise violations, Dr. Morgan believed they were not super parties. Dr. Morgan asked Council to consider potentially raising the number of people from 4 to 8 or 10 people. He echoed Catherine Ciferri's comments regarding reestablishing the Town and Gown Committee. Dr. Morgan thought the Town and Gown Committee ceased to exist was because the University Administrators stopped attending the meetings. He said David Roselle was the University's President until 2007 and lived in the President's house. Dr. Morgan announced Dr. Dan Rich was the provost in 2007 and still lived on Beverly Road. David Hollowell lived in the northwest portion of Newark.

When the Harker administration came in, Dr. Morgan said most high-level University administrators no longer lived in Newark. He claimed most University administrators lived 10 or more miles away from City limits. Dr. Morgan believed the fact that University administrators lived outside City limits potentially contributed to the Town and Gown Committee's breakdown. He thought the Town and Gown Committee's success would depend on commitment from high-level University authorities who lived in the City of Newark. Dr. Morgan said comments made by students indicated they wanted to stay out late at parties until 3:00 a.m. He believed this was a problem and thought students were not kept busy enough with homework. Dr. Morgan thought the University needed leadership at its highest levels.

Mike Koval, Leasing Manager for Rittenhouse Station, said the Ordinance was new to him. He was concerned with the provision which said four or more people were not permitted in a residence. Mr.

Kowal stated some units at Rittenhouse Station had four or more bedrooms. He questioned how this provision would affect students in four-bedroom units who had friends over to watch the Superbowl if the police were called. Mr. Kowal asked if the NPD would cite students in this situation since it was their residence. He thought the Ordinance should raise the number of people permitted in a residence from four to eight or 10. Ms. Sierer asked Sgt. D'Elia to explain why the limit of four people was established. Sgt. D'Elia said the limit of four people for the Ordinance was based on the City's rental permit limit of three people. Additionally, Sgt. D'Elia announced the limit mimicked Towson's Ordinance. Sgt. D'Elia said three people working together created a riot condition; furthermore, increasing the limit to four people provided additional leeway.

Marguerite Ashley, 52 Kells Avenue, said she lived at her residence since 1986. Ms. Ashley thanked the City, Dr. Roe and the ONCA for addressing the fact that Kells Avenue and the vicinity were and currently are great neighborhoods to raise families. She hoped policy would continue to move forward with this realization. Ms. Ashley thought it was not possible to replicate Old Newark. She announced a house behind her residence periodically hosted loud parties. Ms. Ashley said she would not call the NPD if it was 9:00 p.m. or 10:00 p.m. at night. She claimed to call the NPD once or twice in her life; however, she called them at 1:00 a.m. or 2:00 a.m. Ms. Ashley thought it was realistic to assume the issues were complaint driven and did not believe any of her neighbors would call NPD within the first half-hour of a loud party. She thanked everyone involved with the Ordinance for their concern with the quality of life in her neighborhood.

Mark McClafferty, University student, announced he was a student at the University and was in a fraternity. He thought many students would transfer from the University if the Ordinance passed. Mr. McClafferty believed the University had a history of partying and announced the University and fraternities were part of Newark's history. He thought the fraternities were specifically targeted by the Ordinance. Mr. McClafferty announced he lived with seven people and his friends lived with four people. For this reason, Mr. McClafferty said many houses exceeded the four-person limit and believed most houses had six residents. Mr. McClafferty stated friends and girlfriends came over to his house on a daily basis and claimed they were simply living their lives. He announced Parent's Weekend took place last semester and hosted the event. Mr. McClafferty said his parents came to visit him from 2,500 miles away in California and paid a lot of money to see him. He hosted a speaker in the kitchen and claimed to put substantial effort towards soundproofing the houses. Mr. McClafferty said the intent was to respect and not disturb elderly people, women, and families in Newark. He believed his friends and fraternities made significant efforts to help the neighborhood and wanted to work with the City. Mr. McClafferty thought more communication was needed between all people involved. He believed it was unfair for residents to call the NPD for certain issues.

Ms. Sierer thanked Mr. McClafferty and encouraged him to introduce himself to his neighbors. Mr. McClafferty said he introduced himself to his neighbors and announced the NPD busted Parent's Weekend around 5:00 p.m. for a noise violation. He said they did not take a ticket as they believed the noise violation was applicable after 9:00 p.m. and believed the NPD were surprised they were called to the complaint. Mr. McClafferty believed there were no opportunities for fun in Newark besides parties. He thought parties would not stop because of the Ordinance and believed it would increase tension between the students, NPD and neighbors.

Salvatore Desiderio, 9 Ritter Lane, thought he might be one of the biggest complainers about University students. Mr. Desiderio announced students attempted to enter his home. He did not believe students who attended Council meetings were problematic and thought these students were the type of people they would be able to work with. Mr. Desiderio said he remained friends with some students who went on to graduate. He stated he paid a student who assisted with yard work on his property and wished it was possible to have respectful relationships with all students. Mr. Desiderio believed only a small percentage of people created problems and clarified University students were not the only source of issues. He described his neighborhood as Ground Zero for unruly behaviors and did not want students to think residents hated all students. Mr. Desiderio praised the students who presented their concerns at the Council meeting and thought they should not be afraid of the Ordinance. He thought the students who constantly got in trouble were the ones that should worry about the Ordinance. Mr. Desiderio restated two individuals attempted to enter his residence and were chased away by a neighbor.

Jenny Toter, Property Manager at Rittenhouse Station, said she worked in student housing for over 15 years. Ms. Toter thought the Ordinance was a good idea as she lived on-site and heard all the parties that occurred. She understood the non-student and student concerns. Ms. Toter thought their needed to be a committee that worked more closely with the University to explain to students why the Ordinance was created. She thought the Ordinance was more of a risk-management effort than it was an attempt to shut parties down. Ms. Toter thought it was important for students to understand the issues

and risks associated with gatherings of large amounts of people who potentially engaged in unruly behaviors. She agreed there needed to be other outlets for students on Main Street and reiterated her belief additional explanation should be provided to students. Ms. Toter thought the University's Student Government Association (SGA) should be involved in discussions with students regarding the Ordinance and problems associated with large parties. If the Ordinance passed, Ms. Toter thought it would be beneficial for the NPD to reach out to students and student housing institutions.

Todd Ruckle, District 2, said he liked the Ordinance and thought language could be added which allowed residents to have one or two guests per person. He thought community service was a good solution for people who violated the Ordinance and announced Vance Funk, former Mayor of Newark, personally cleaned up trash every day on Main Street. Mr. Ruckle thought members of Council could volunteer at community service cleanups and host a meeting with the students. He believed it was a good way for students and Council members to meet each other in order to bridge a gap.

Sharon Hughes, District 2, thought the students, residents and NPD were the three parties involved in the Ordinance. Ms. Hughes thought the issue was about quality of life for students and residents. She believed students and residents had different standards for quality of life; therefore, students would engage in partying and other behaviors that were typical for students. Ms. Hughes thought limits needed to be established and thought it was not effective to blindly address the issue through residents and NPD. She believed the Ordinance was beneficial as it brought the community together. Ms. Hughes thanked Council, City staff and NPD for their assistance.

Ms. Sierer brought discussion back to the table.

Mr. Hamilton thanked the audience for their comments. He said the Ordinance was developed through an eight to nine-month process. He informed the audience he walked the streets and went door to door as a Council member; additionally, Mr. Hamilton recently asked people on South College Avenue to pick up trash in their yard. He emphasized the Ordinance applied to all individuals in the City and believed the vast majority of University students were awesome people. Mr. Hamilton was proud to be a part of the University community and worked hard with Ms. Olsen to increase the number of non-alcohol related events on campus. Mr. Hamilton clarified the Ordinance did not target a particular group of people; moreover, he hosted parties with 40+ people which consisted of families and young children. He stated he was responsive to complaints about noise complaints from his parties and was careful to quiet down. Mr. Hamilton believed a holistic effort was utilized and expressed Council and staff reached out with different ideas. He informed the audience a Good Neighbor guide was being developed and encouraged residents to introduce themselves to their neighbors each year. Mr. Hamilton said he personally spoke to many University people and gave them his business cards. He thought super parties occurred at a specific group of 10 or 12 houses; moreover, those houses could turn into a whack-a-mole situation. Mr. Hamilton said there were a couple hundred people involved in super parties and thought the parties acted as underground sources of revenue for the University's underground economy.

Mr. Hamilton said he would address neighbors personally to let them know their parties were out of control. If this was ineffective, Mr. Hamilton stated he would notify the NPD. He claimed to establish a relationship with his neighbors over the years and wished the same relationships could exist with all students. Mr. Hamilton encouraged everyone to attend a ride-along with NPD on a Thursday, Friday, or Saturday night. He said it was easy for people to think the Ordinance picked on people and believed the NPD would respond to associated complaints with good reason. Mr. Hamilton thought most people did not care if students partied. He thought parties were out of hand when they became completely disrespectful to neighbors and affected the quality of life. Mr. Hamilton hoped the culture would change and people would be respectful of their neighbors. He thanked Mr. Ruckle for his comments and said he would be happy to volunteer for community service hours and interact with University students.

Mr. Hamilton stated the Ordinance looked to address safety concerns and announced he observed highly intoxicated individuals while he attended the ride-along with NPD. He expressed an intoxicated student approached him and questioned how to avoid getting arrested for underage drinking. Mr. Hamilton announced property damage frequently occurred as a result of super parties (i.e. replacing fences and bushes). He reiterated students were not always the ones who engaged in unruly behaviors reiterated the Ordinance addressed quality of life in Newark's neighborhoods. Mr. Hamilton announced he cared about students' rights and laws; additionally, he encouraged students to vote. He believed everyone should work together and expressed work would continue with the University. Mr. Hamilton encouraged people to contact him at 302-757-1851.

Ms. Wallace asked for clarification regarding people who waited for Uber after parties disbursed. She encouraged people to use Uber or ridesharing instead of driving or walking when it was unsafe for

them to do so. Sgt. D’Elia agreed ridesharing was important and said there were studies available that showed a reduction in DUI’s and DUI related crashes as a result. He thought it was problematic when traffic jammed on one-way streets due to rideshares (i.e. Park Place or Chapel Street). Sgt. D’Elia thought this was an issue since people walked onto the middle of the street in between cars. Additionally, he announced it was impossible to determine when traffic would flow again. Sgt. D’Elia did not want to see a collision occur and announced the majority of collisions occurred when people did not follow traffic rules. Sgt. D’Elia said NPD reached out to Uber and rideshare companies to inform them about the rules of the road and citations. He expressed rideshare drivers were cited for traffic violations and stopping in the middle of the road. If the Ordinance passed, Ms. Wallace thought the NPD could help come up with solutions and believed ridesharing needed to be encouraged. Sgt. D’Elia said he would get the message back out to Uber and Lyft since they seemed to be the most popular companies. He clarified NPD encouraged ridesharing and stated they wanted the drivers to follow the rules of the road.

Ms. Wallace thanked everyone who came to the meeting to comment on the Ordinance. She acknowledged the issue was a charged topic and thought it took a lot for people to speak out. Ms. Wallace clarified four people alone was not a trigger for the Ordinance; additionally, there were two other violations that needed to occur (i.e. loud music at 2:00 a.m., public urination, underage drinking etc.). She emphasized people were not at risk for simply having a party. Ms. Wallace believed the Ordinance addressed controlling behavior that no one wanted to live next to. She believed the Ordinance targeted people with bad behavior throughout the City. Ms. Wallace said she would support the Ordinance and encouraged non-student and student residents to attend Council meetings. Additionally, Ms. Wallace encouraged people to contact Council if the Ordinance passed and they felt unfairly targeted by the NPD.

Mr. Morehead reiterated Ms. Wallace’s comment that the Ordinance did not target any one group of people. He said the Federal Census would be completed in April and everyone who lived in the City were residents of Newark. Mr. Morehead thought the difference was some people took living in community seriously; specifically, certain people introduced themselves to their neighbors and were available to help. He believed younger people felt they were responsible for getting their friends home safely. Mr. Morehead emphasized the Ordinance was not a student law and clarified certain classes and groups of people would not be targeted. He encouraged people to reach out to him if they felt targeted and announced Council’s email addresses and phone numbers were available on the City’s website. Mr. Morehead stated he was appointed to Council eight years ago. At that time, the Planning Director had the authority to give any landlord a \$100 fine per day for any violation that was discovered. Mr. Morehead emphasized this was no longer the case and assured people to communicate their concerns with Council. Finally, Mr. Morehead said Council members were part of the community and lived in the district they represented. He said Community Policing was used in the City where NPD responded to a wide variety of incidents. Mr. Morehead thought Newark required tremendous discretion from their first responders. He expressed Newark’s first responders routinely received the highest awards in the country for their outstanding service. Mr. Morehead said the Ordinance provided the City with an additional method to address specific parties and locations which everyone agreed needed to be addressed.

On his most recent ride along, Mr. Morehead observed a party on South College Avenue where someone had a gun. Mr. Morehead said every police officer in Newark responded to the party until they found the gun. He thought students should be thankful for the NPD’s response and willingness to risk their lives.

Mr. Lawhorn thought the feedback about the Ordinance was beneficial and said the students and residents did a great job representing themselves. He thought both sides made good points. Mr. Morehead thought the overall theme of public comment was that the Ordinance would not address the root of the problem. Mr. Lawhorn described the Ordinance as a Band-Aid which would help address the problem but would not stop the behavior completely. He believed the Ordinance was necessary since the root cause of the problem had not been addressed. Mr. Lawhorn believed the student housing issue, extinction of the Town and Gown Committee, and the resident-centric nature of Main Street contributed to the issue. Mr. Lawhorn said their used to be places for students to go; however, the places did not exist anymore. He thought Council should address these concerns down the road. He agreed with Ms. Wallace to the effect he saw ridesharing as a positive for the community and thought the City should figure out how to make it work. Mr. Lawhorn believed ridesharing decreased the likelihood of drunk-driving and thought it was a good method of transportation for everyone. He expressed support for the Ordinance and believed it provided a way to increase fines for multiple stages of behavior that should not occur.

Mr. Lawhorn encouraged people to contact him if they felt the Ordinance was unfairly enforced. He clarified multiple unruly behaviors were required to trigger a violation of the Ordinance and believed it would enforce people who got out of hand. He thought the phrase “alcohol is made readily available to persons under 21-years old without impediment” was vague and wanted to make a motion to eliminate this language in item C.

Mr. Clifton questioned whether the NPD went to orientations at the University. Chief Tiernan said NPD used to attend University orientations and talk to incoming students and their parents. He informed the audience NPD did not attend the University's orientation for the past eight years. Mr. Clifton emphasized the City and NPD did not un-invite themselves from these orientations. Mr. Clifton believed the entire NPD and City staff would love the opportunity to have meaningful dialogue with the University. He believed the University's Student Guide did not sufficiently address the problematic behaviors as referenced in the Ordinance. Mr. Clifton thought the issue at hand was about people's respect for each other. He believed respect was probably not a learned behavior for people who were eighteen or nineteen years old. Mr. Clifton thought a majority of people grew up in households located in nice residential neighborhoods. He believed most people did not host large parties that were disruptive to their neighbors; moreover, Mr. Clifton thought most people's parents would have disciplined them if they infringed upon neighbors' rights to live in a peaceful community. Mr. Clifton expressed it was necessary for neighbors to value quiet time in their neighborhoods. He believed people did not deserve to suffer property damage. When he worked on the Student Rental Ordinance, Mr. Clifton believed it developed due to a clash or difference in non-student residents' lifestyles and non-student residents' lifestyles.

Mr. Clifton encouraged people to continue dialogue with each other. He believed it was disingenuous and totally offensive when comments were made by students which claimed the Ordinance developed as a result of neighbors who did not like them. Mr. Clifton thought the Ordinance addressed the ability to live one's life without property damage. He recently ran across an 86-year old resident at Walgreens on Main Street who cried because young people continually broke his street lamp or urinated on his walls on their way home from parties. Mr. Clifton said the Student Rental Ordinance developed because an individual on Benny Street had a young person urinate on her side wall in front of her parents. He thought such behavior was offensive and encouraged people to stop bad behaviors if they did not want to be charged for them. Mr. Clifton encouraged people to respect their neighbors and stay away from disruptive behaviors. While he respected students who attended the University to earn their degrees, he did not believe it gave them license to go into the community and disrupt existing lifestyles. Mr. Clifton attended many ride-alongs and mentioned a time where NPD found a young man passed out in the middle of Cleveland Avenue after a party. Related to that same party, an individual attempted to break into the back of an elderly couple's house on Kells Avenue. Mr. Clifton said the elderly couple were terrified and believed people should not be held hostage in their homes. He supported the Ordinance and believed it was another tool for the City to utilize.

Mr. Markham said both he and his wife were students at the University; additionally, they put their two children through college. He thought most people did not want to attend the meeting for this topic. Mr. Markham believed all people needed to treat the neighborhoods and residences as if it was their own home. He said effort was made to determine the right combination for the Town and Gown Committee. Mr. Markham expressed Mr. Funk tried several times to reach out the University and they did not show up to the meetings. He announced parties used to go from place to place; moreover, it used to be common to observe parties travelling in packs from one place to another. Because of technology, Mr. Markham believed parties significantly wound down before the NPD arrived on scene. Mr. Markham announced the Ordinance targeted repeat offenders at repeat locations. He attended ride alongs with NPD where he watched them clear 250 people out of an apartment. Mr. Markham said the police were not interested in arresting the parties; however, they needed them to move along.

Mr. Markham attended another ride along where the NPD found a student and called an ambulance to take the individual to the hospital due for excessive alcohol consumption. Mr. Markham believed there was a lot of caring that went on in the NPD and emphasized they were not really there to arrest people and wanted to make sure everyone was safe. Mr. Markham said there used to be issues related to underage drinking in the City's bars. For this reason, a point system was developed to address underage drinking in restaurants and bars. Mr. Markham believed the point system for underage drinking addressed repeat offenders or locations like the proposed Ordinance. He questioned whether the Ordinance's enforcement would change at parties where people had permits. Sgt. D'Elia said allowable behaviors for gatherings were specified on their permit. If students' behaviors were not mentioned in the permit, Sgt. D'Elia said they could potentially be in violation of City laws and the Ordinance. Mr. Markham asked for clarification regarding the Ordinance's ridesharing provisions. Sgt. D'Elia announced the provisions were not specific to rideshare; however, vehicles and people were not permitted to block certain areas when the gathering was disbursed. Mr. Markham thought the provision mentioned 1,000 feet and Sgt. D'Elia clarified the provision was to get people out of the neighborhood where they caused an issue. Mr. Markham asked if 1,000 feet covered three houses and Sgt. D'Elia confirmed it was not a large area. Mr. Markham thought it would not be an issue as long as ridesharing vehicles spread out. Sgt. D'Elia encouraged people to leave the area and wait for their rideshares elsewhere so they would not disrupt the individuals who called the NPD.

Mr. Markham pointed out the landlord portion was removed from the Ordinance and questioned whether a discussion would take place on this issue. Sgt. D'Elia said the landlord portion would be addressed down the road. Mr. Markham asked if the provision of an assemblage of four or more people was a suggestion or if it was a hard or fast number. Sgt. D'Elia clarified Council could change the number if they wanted and expressed the number four was provided since it was successful in other jurisdictions. He restated the fact that a rental permit usually was limited to three people and complied with the City's riot laws. Mr. Markham agreed people were aware of the rental permit limits and believed there were constitutional issues involved with its enforcement. Sgt. D'Elia did not know if changing the number from four to another amount would be successful because there was no research to support it. If the Ordinance passed, Mr. Markham thought NPD should monitor it to see whether it was effective. He thought the City experienced issues with people who were dropped off from other colleges to attend parties. Sgt. D'Elia confirmed this was the case. He suspected many students from other universities or colleges were on spring break which potentially might create a problem for the City this weekend.

Mr. Markham thought there were people who attended parties that were not supposed to be there. He questioned what advice could be given to address this issue. Sgt. D'Elia announced NPD did not want people who were not invited to attend these parties and clarified they would be happy to deal with trespassing concerns. He emphasized NPD did not intend to target a party if there were no complaints or issues. Mr. Markham announced the City had the Good Samaritan Law which permitted individuals to call the police without fear of prosecution.

MOTION BY MR. HAMILTON, SECONDED BY MS. WALLACE: TO APPROVE BILL 19-05, AN ORDINANCE AMENDING CHAPTER 22, POLICE OFFENSES, CODE OF THE CITY OF NEWARK, DELAWARE BY CREATING A CIVIL VIOLATION FOR UNRULY SOCIAL GATHERINGS.

Ms. Sierer opened discussion to the table.

Mr. Markham requested to make a motion to change Item-B – the assemblage of four or more persons – to 10 people.

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: TO CHANGE ITEM B – THE ASSEMBLAGE OF FOUR OR MORE PERSONS – TO TEN PERSONS.

MOTION FAILED. VOTE: 3 to 4.

Aye – Lawhorn, Markham, Morehead.

Nay – Clifton, Hamilton, Sierer, Wallace.

MOTION BY MR. LAWHORN, SECONDED BY MR. MARKHAM: TO AMEND BILL 19-05, SECTION 22-74.3 (B)1(C) TO ELIMINATE THAT SECTION WHERE ALCOHOL IS MADE READILY AVAILABLE TO PERSONS UNDER THE AGE OF 21 YEARS OLD.

Ms. Wallace asked Sgt. D'Elia if party hosts were culpable if there was alcohol available to persons under 21-years of age and they consumed it. Sgt. D'Elia said party hosts would be held responsible if alcohol was readily available and provided to individuals who were under 21-years of age. Ms. Wallace questioned whether this applied to alcohol that was on a table and Sgt. D'Elia confirmed this was the case. She questioned whether the Ordinance would apply for people who hosted graduation parties where beer or wine was available for people who were over 21 years of age. Sgt. D'Elia announced it would be harder to prove alcohol was made readily available to people under 21 years of age for this situation.

Mr. Lawhorn asked if people would be responsible for providing alcohol to minors even if they did not consume it. Sgt. D'Elia said people that hosted parties in this situation would not be charged because they did not provide alcohol to minors. He reiterated it was necessary to have both the provider and recipient for that law. Mr. Lawhorn thought the Ordinance still held people responsible for providing alcohol to minors even if they did not consume it. If the alcohol was readily available in the back yard and persons under the age of 21 could obtain it, Sgt. D'Elia clarified the party hosts would be charged in this situation. Mr. Lawhorn thought NPD should not charge people for what they might have done and believed evidence was required.

MOTION PASSED. VOTE: 4 to 3.

Aye – Lawhorn, Markham, Sierer, Wallace.

Nay – Clifton, Hamilton, Morehead.

MOTION BY MR. HAMILTON, SECONDED BY MS. WALLACE: TO APPROVE BILL 19-05 AS AMENDED, AN ORDINANCE AMENDING CHAPTER 22, POLICE OFFENSES, CODE OF THE CITY OF NEWARK, DELAWARE BY CREATING A CIVIL VIOLATION FOR UNRULY SOCIAL GATHERINGS.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – 0.

Ms. Sierer thanked the audience for their attendance and feedback on this topic.

(ORDINANCE NO. 19-05)

21. 6. SPECIAL DEPARTMENT REPORTS

A. General Assembly Update and Associated Requests for Council Direction – Lobbyist

2:25:31

Mr. Armitage said Senate Bill (SB) 11, the Pilot Program Bill, was released from committee in the Senate. He currently was in the process of gathering votes with Senator Sokola before it was placed on the agenda. Mr. Armitage was encouraged since SB 11 came right out of committee. The Senate’s agenda for March 12, 2019 includes SB 25 which changes the smoking age in the State of Delaware from 18 to 21. Mr. Armitage said the estimated decrease in State revenue for FY2019 was expected to range from \$1.3-\$1.4 million as a result of SB 25. The estimated decrease in State revenue from SB 25 in FY2020 was projected to range between \$2.3-\$2.4 million. Mr. Armitage spoke with Senator Townsend and asked him if SB 25 would make it a criminal offense for someone under the age of 21 to possess tobacco products. At this point, Mr. Armitage expressed possession of tobacco products by individuals under the age of 21 was not a criminal offense.

House Bill 54 – which changes Court costs from \$1 to \$2 fee to fund DELJIS – was scheduled on the House’s March 12, 2019 agenda. Mr. Armitage said HB 54 moved quickly out of committee. He informed the audience the change was overwhelmingly supported in the Law Enforcement community and other DELJIS users. Mr. Armitage said he would monitor this bill for the Court and City Solicitor. HB 34, the Rehoboth Charter Changes, was on the Senate’s agenda for Wednesday, March 13, 2019. Mr. Armitage said he would publish an updated table tomorrow (March 12, 2019).

SB 28 and 29 were introduced last week. HB 28 increases fines associated with parking in a space for individuals with disabilities; specifically, the fine for first offense would be raised from \$100 to \$200. Mr. Armitage said subsequent offenses at the State level would increase from \$200 to \$300. HB 28 was scheduled for a Transportation Committee hearing. Mr. Armitage thought HB 28 should be monitored and announced he would let the City Solicitor know if further action was needed. HB 29 would change the possibility of people going to jail and would increase penalties.

DEFAC was scheduled for Monday, March 18, 2019 and would provide updates on what was taking place with the State’s revenues. Mr. Armitage said this update would be useful for the Bond Committee when they began to meet in April. He believed the general consensus was the desire to see one-time projects from excess funding than adding to the budget’s base. Mr. Armitage recently spoke to Donald Sharpe, resident of Newark, who asked for his assistance to acquire ground in Newark for White Clay Creek State Park. He asked Council if he could use the resources they provided to assist with Mr. Sharpe’s request.

Mr. Markham expressed Mr. Armitage’s request was based on a recent conversation they had. He asked for Council’s support for Mr. Armitage to make some phone calls to support the Open Space Funding and see what he could obtain. Mr. Markham believed there was space near District 6, District 5 and other areas. He clarified areas of open space – particularly anything that was forested – would help the City of Newark and believed it would benefit the overall quality of life. There were no objections from the table. Ms. Sierer said Mr. Armitage was able to proceed with this effort.

There were no comments from the table and Ms. Sierer opened discussion to the public.

Catherine Ciferni, District 2, supported Mr. Sharpe and commended the time he spent advancing environmental efforts in the City.

22. 6-B. YEAR-END PENSION/OPEB REPORT – FINANCE DIRECTOR/VANGUARD

2:31:03

Mr. Del Grande introduced Joe Wolfram from Vanguard and said he represented the City's pension and other post-employment benefit plans (OPEB). He stated Mr. Wolfram would provide a status update for the City's pension and OPEB accounts.

Mr. Wolfram said he was a Senior Investment Consultant with the Vanguard Group. He intended to speak about the City's pension/OPEB performance through 2008; the City's pension/OPEB YTD performance; Provide a brief summary of the economic update, & answer questions.

Total assets for both the pension and OPEB plans through December 31, 2018 were approximately \$73.3 million. The pension plan had about \$63.9 million and the OPEB plan had approximately \$93.4 million. As of the close of business yesterday (March 10, 2019), the assets from both plans were significantly higher; specifically, the pension plan was up from 5.9% to \$61.6 million and OPEB was up by 9.4% to \$10.2 million. Mr. Wolfram said the OPEB plan's increase was due to cash flows, particularly contributions made earlier in the year. According to Mr. Wolfram, both plans have the same target asset allocations. However, the numbers for both accounts were different due to the cashflow timing.

Mr. Wolfram described 2018 as a volatile year, with the first quarter being flat and both portfolios were approximately at -1%. The second and third quarters were relatively strong with positive returns. Mr. Wolfram said equity markets peaked on October 2 & 3 respectively. The S&P 500 reached its high on October 3, 2018 at 2,925 and DOW at 26,700. Markets peaked for the year in October with October and November described as relatively rocky. Mr. Wolfram announced December 2018 had significant negative results. The fourth quarter reflected -8% for both plans. Mr. Wolfram said this volatility significantly reduced portfolio returns for the year. The portfolio returns for the year for both plans were approximately -5%; moreover, this number was based on results from the fourth quarter. In the fourth quarter, Mr. Wolfram described asset returns for most classes as negative. For example, Domestic equity, International equity, Domestic fixed-income & U.S. Public equity real estate (REIT) were all negative. Mr. Wolfram announced fixed-income was basically flat. Longer-duration/fixed-income was the only positive return for 2018.

On January 4, 2019, Jerome Powell, Federal Reserve Chairman, announced the Fed would be more accommodative if necessary. Just prior to this announcement, Mr. Wolfram said the markets bottomed on December 26, 2018. Mr. Wolfram stated equities rallied after December 26, 2018 and continued through the beginning of March 2019. Domestic equity was the largest performer at 9%, S&P returned approximately 11% and DOW returned 10% YTD. Mr. Wolfram said fixed-income increased slightly and REIT through the first quarter increased to 12-13%. YTD portfolios combined were up around 6.3% and the negativity from the fourth quarter reversed itself.

Mr. Wolfram said the Vanguard Group took the allocation in the investment policy statement – which generally is 70% return seeking and 30% fixed income – and mapped it into Vanguard funds. The allocation itself was approximately 41.4% and consisted of U.S. equity, non-U.S. equity, fixed-income and real estate. Mr. Wolfram said mostly upward volatility occurred in 2019 market and announced Vanguard liked to control factors they could control. He announced fees were controllable and believed low-fees would help performance for returns. Mr. Wolfram defined investment fees as the fees that funds charged themselves/the expense ratio. He clarified the expense ratio was not a direct cost and came directly out of the return itself. To the extent a manager outperforms or underperforms his benchmark, Mr. Wolfram said this was reflected or net from the fees. Mr. Wolfram said advisory fees are the direct cost for advice for Newark to have Vanguard partner as a co-fiduciary. The fees for Vanguard's co-fiduciary service consisted of eight-basis points or .079%. Mr. Wolfram said the expense ratio itself was 12.1% and clarified the City spent \$0.20 for every \$100 for Vanguard to help manage their assets.

Mr. Wolfram said market volatility measured the number of occurrences per year that the market moved up or down by 1% since 1988. He expressed the market's moving average equaled 128 occurrences per year. There were 250 trading days in the year with half of those days experiencing volatility of 1-2%. 2017 was an outlier with 10% volatility and volatility returned to the norm in 2018. Mr. Wolfram expected average market volatility in 2019.

The Global Economic Output (GEO) expectations were down but not out. Mr. Wolfram said the Equity Market had its 10th anniversary last weekend. Total U.S. stock markets returned an average of 15% per year since 2009. Mr. Wolfram had positive expectations for Equity markets going forward, although not as positive compared to previous years. He announced recent substantial movement in the fixed-income markets with a decrease for most rates. Mr. Wolfram explained decreased rates lead to positive rate trends. He expected rates would move up gradually. Mr. Wolfram said the long-end of the yield-curve was driven by inflation expectations while the short-end of the yield-curve was driven by the Fed Fund's rate. He expected the Fed would raise rates one more time, likely in June. Mr. Wolfram thought global

inflation was unlikely to shoot past 2%. Mr. Wolfram thought any volatility in the market could be driven by a few things; however, the reason for inflation would most likely be attributed to the U.S. relations with China. He informed the audience that Vanguard appreciated the relationship and co-fiduciary responsibility with Newark.

Ms. Sierer opened discussion to the table.

Mr. Clifton asked for clarification regarding the projected Fed rate increase in June 2019. Mr. Wolfram said Vanguard's economists believed the Feds would raise rates one time this year in June 2019.

There was no public comment.

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: TO ACCEPT THE YEAR-END PENSION/OPEB REPORT.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – 0.

23. 6-C. 2019-2020 INSURANCE RENEWALS – FINANCE DIRECTOR:

2:42:38

Mr. Del Grande said the City's existing lines for insurance expire on April 1, 2019. Willis Towers Watson (WTW), Newark's insurance brokers, were contacted to conduct a limited marketing effort on the City's Municipal Liability Package, Commercial Automobile and Property placements per the City's instruction. WTW came back with the renewal of the City's existing coverage to be a total of \$652,000, which reflected decrease of .7% or \$4,633. Mr. Del Grande said there were no proposed changes to the City's premiums with one exception. WTW asked the City to consider adding a rider to both liability and property coverage; specifically, to cover any acts of terrorism that may affect the City of Newark. Mr. Del Grande said the two riders would increase the City's insurance premiums by \$11,626. Because of the two riders, Mr. Del Grande said all the deductibles, ceilings, and coverage would remain the same. Mr. Del Grande announced it was well known that insurance was purchased based on the probability or likelihood of events. Fortunately, Newark had not experienced an act of terrorism; however, Mr. Del Grade said the Federal Government had \$100 billion annual fund that would be shared equally amongst the U.S. when these acts occurred. An 80% reimbursement rate was expected to begin by 2020.

For those reasons, Mr. Del Grande recommended the riders to be added to the City's policy for liability and property coverage. Mr. Del Grande announced WTW's brokerage fees increased by 4% to \$64,575 and said SISCO remained as the City's third-party administrator (TPA). The increase from WTW was the first request that asked for since 2015 and Mr. Del Grande felt this was reasonable. All insurance premiums – including terrorism riders, brokerage and TPA costs – amounted to \$729,367. He informed the audience the total was \$28,000 under the City's 2019 budget. Mr. Del Grande recommended for Council to authorize staff to bind insurance coverage for the 2019-2020 policy year per the recommended levels with the following carriers:

1. Liability, Property, Inland Marine, Crime and Fiduciary with Chubb;
2. Automobile with CNA;
3. Cyber Liability with AXIS;
4. TPA with SISCO, &
5. Brokerage with WTW.
- 6.

Ms. Sierer opened the discussion to questions from the table.

Mr. Markham questioned if the insurance company would survive in the event of a terrorist attack. Mr. Del Grande hoped the insurance policy would survive and thought acts of terrorism typically targeted specific areas as opposed to the continental U.S. He took comfort in knowing this insurance policy exists. Mr. Del Grande announced CHUBB had an AA+ rating and was confident the City would have no issue with coverage.

Mr. Clifton recommended contingency funds because money sometimes came in slowly. He asked Mr. Del Grande for clarification regarding the terrorism rider and what impact it might have for Newark. Mr. Del Grande said the Federal Government would reimburse the City with \$0.80 for every \$1 if a terrorist act occurred. If incurrent expenses exceeded the \$100 billion set aside, the 80% reimbursement rate

would drop so everyone could receive a portion. Mr. Clifton restated his concern for the City to have the ability to access funds quickly if necessary.

Mr. Hamilton thought the City should not define terrorism by their own standards. He believed the parameters needed to be certified by the Secretary of the Treasury as well as the U.S. Attorney General's Office and other parties. He asked Mr. Del Grande if they were aware whether this approval and payouts took place. Mr. Del Grande believed there were no instances of this or any payouts for the terrorism rider in the U.S. Mr. Hamilton asked for clarification regarding the cost of the City's terrorism rider. Mr. Del Grande restated the terrorism rider would increase the City's Liability and Property coverage by \$11,626. Mr. Hamilton questioned whether the terrorism rider was worth for the City and was concerned since there were zero payouts.

There was no public comment.

MOTION BY MS. SIERER, SECONDED BY MR. LAWHORN: THAT COUNCIL AUTHORIZE STAFF TO BUY AN INSURANCE COVERAGE FOR THE UPCOMING POLICY YEAR FOR THE RECOMMENDED LEVELS AND CARRIERS REPORTED IN THE MARCH 1, 2019 MEMO.

MOTION PASSED. VOTE: 6 to 1.

Aye – Clifton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – Hamilton.

24. 6-D. 2019 REVENUE STABILIZATION ADJUSTMENT – FINANCE DIRECTOR

2:50:38

Mr. Del Grande said the Revenue Stabilization Adjustment (RSA) was a component of the City's electric rate and must be reset effective March 15, 2019 to reflect the City's cost of electric. There were three main components to the RSA:

1. The wholesale cost of Purchased Power;
2. The cost of the past year's electric expenses, &
3. The adjustment needed for the City to meet its budgeted operating margins.

Mr. Del Grande said all efforts lead to an overall current of \$6.2 million and was available to return to the customers. Staff proposed the following for the City's 2019 RSA:

1. Fund the 2019 Worker's Compensation Insurance program for \$650,000;
2. Fund the 2019 increase of \$100,000 for the AETNA Fire Company as approved in the 2019 operating budget;
3. Set aside \$2 million in the City's Electric Rate Stabilization Reserve to begin saving for the City's need to build a new substation over the next few years. Past estimates for a new substation were in the \$12-\$16 million range, &
4. Set aside \$100,000 to help with the City's migration to the new electric rates in 2020.

Mr. Del Grande said the \$100,000 for new electric rates could be used to help with any unforeseen situations created from the new rate structure. The remaining \$3.3 million would be passed back via credit of \$0.01206 per kilowatt hour and should be applied to all customers assigned to rate classifications that are subject to the RSA. Mr. Del Grande announced the same credit was proposed during the 2019 budget cycle, resulting in a monthly increase from \$8.24 to \$12.06 for every 1,000 kilowatts used. On an annual basis, the new rate structure was projected to lower electric bills by \$99 per year to \$145 dollars per year. This credit would be effective as of March 15, 2019 and would last for one year, amounting to a 5% decrease for the City's residential customers.

Staff recommended the following:

- A. Approve the 2019 gross-available RSA of \$6,191,700;
- B. Amend the 2019 operational budget to allow \$650,000 to be used to fund the 2019 Workers Compensation Insurance Program;
- C. Amend the 2019 Operational Budget by increasing the margin transfer of \$100,000 to fund the subvention increase for the AETNA Fire Company;
- D. Move \$2 million dollars to the Electric Rate Stabilization Reserve to begin setting aside funding for a new substation;
- E. Move \$100,000 to the Electric Rate Stabilization Reserve to be utilized for the implementation of anticipated, revised electric rates in 2020, &
- F. Adopt the RSA rate of -\$0.01206 per kilowatt hour, effective March 15, 2019.

Ms. Sierer opened discussion to questions from the table.

Mr. Markham questioned if the City could leverage any funding they currently had (i.e. loan wise) to held with funding for the new substation. Currently, Mr. Del Grande said the majority of funding from the City's referendum was water or sewer-related with a \$3 million authorization on the bond side. Mr. Del Grande announced the majority of the referendum funding on the bond side would primarily be used for the Parks and Recreation Department and others. Mr. Coleman clarified the language in the referendum question referred to projects in the approved Capital Improvement Program (CIP) and the subvention project was not part of the 2018 CIP. Mr. Markham asked if the Electric Department would be required to come up with all the funding before the substation could move forward. Mr. Del Grande confirmed this was the case and restated funding was not set aside last year [2018] for the substation. He said \$381,000 was utilized from the bond market to fund two Capital Projects. Mr. Del Grande announced \$2.1 million dollars were moved from the RSA to the Electric Rate Stabilization Reserve to hedge against future costs of rising electric. He clarified there were only two instances where the City went outside of the normal RSA credit rate. Mr. Markham questioned whether the City had to tap the Electric Rate Stabilization Reserve. Mr. Del Grande stated the City did not tap the Electric Rate Stabilization Reserve and confirmed there was \$2.1 million available. He said the majority of the credit was due to a decrease in the wholesale electric rate from \$0.093 to under \$0.07.

Mr. Del Grande stated it was necessary to true the electric rate to \$0.093 because it was the base of the \$0.145 that residents paid for electric. He informed the audience the cost of natural gas and purchasing power decreased over the years. Mr. Del Grande thought this was a temporary situation, and hoped 2020 would be a good year for the RSA. When the new rates went into effect, Mr. Del Grande said it would be possible to reset the whole rate process from the beginning. He believed resetting rates would help the City and minimize the likelihood of large rebates.

Mr. Morehead asked if the City's overcollection was \$6.2 million this year and Mr. Del Grande confirmed this was the case. He asked if the City would not accommodate the difference next year (2020) with the \$0.093. Mr. Del Grande said there was one year left for the RSA based on the current rates of \$0.145. He clarified the 2020 RSA was based on the 2019 rates at \$0.093. Mr. Morehead questioned if the City expected to over-collect in 2019 and Mr. Del Grande confirmed this was the case. After 2019, Mr. Del Grande restated the overcollection should go away. Mr. Del Grande said the City returned DEMEC's lowered rate for power for 2019 in the adjustment this evening. When the City's budget came through, Mr. Del Grande stated they did not have DEMEC's final approved rate. He said the reduction was built in the adjustment. Mr. Morehead the -\$0.1206 [RSA rate of -\$0.01206 per kilowatt hour] was based on an expectation set in the City's budget process last year [2018]. Mr. Del Grande said staff felt -\$0.1206 would be the number at the time; however, things became better for the City. Mr. Morehead asked for clarification regarding the \$2.1 million and thought it would be applied to a new Capital reserve. Mr. Del Grande said staff would come back with the CIP – including the new substation – with funding coming from electric reserves.

Mr. Morehead announced he asked Messrs. Coleman and Del Grande to develop a summary of the City's reserves. He stated the summary would help determine the amount of money in each account and ensure it aligned with the City's financial policies. Mr. Morehead believed Mr. Del Grande would provide Council with a format first and fill in numbers later. He did not want the City to lose track of the \$2.1 million. Mr. Morehead said there was already \$2.1 million in the Rate Stabilization Reserve and questioned whether the additional \$100,000 would be added, bringing the total number to \$2.2 million. While he thought this was a reasonable place to put the \$100,000, Mr. Morehead was concerned that it was designated to accommodate unknown changes in the rate study. Mr. Del Grande believed the Rate Stabilization Reserve was a catch-all for funds and could be used for anything related to keeping rates from changing or going higher. He emphasized staff kept track of every dollar that went into the Rate Stabilization Reserve. Mr. Morehead was concerned with moving money around for an undefined purpose and expressed discomfort with moving an additional \$100,000 to the Rate Stabilization Reserve.

Mr. Morehead planned to attend a meeting at DEMEC tomorrow (March 12, 2019) to learn about rate studies. He believed there were methods to build rates that were equitable for everyone. Mr. Morehead said he would support staff's request and restated his hesitation with moving the additional \$100,000 to the Rate Stabilization Reserve.

Ms. Wallace echoed Mr. Morehead's concerns regarding the request to add \$100,000 to the \$2.1 million dollars in the Rate Stabilization Reserve. She wanted to ensure the purpose and intent of the funding would be clear in the future. Ms. Wallace questioned if the funding would be presented in the CIP for the upcoming year and would be appropriately documented. She approved of the fact residents would

receive some money back. Ms. Wallace thought the recommended path forward – with the exception of the \$100,000 – would benefit residents.

There was no public comment.

MOTION BY MR. MOREHEAD, SECONDED BY MR. MARKHAM: THAT COUNCIL (A) APPROVE THE 2019 GROSS AVAILABLE RSA OF 6,191,700; (B) AMEND THE 2019 OPERATING BUDGET TO ALLOW \$650,000 TO BE USED TO FUND THE 2019 WORKERS COMPENSATION INSURANCE PROGRAM; (C) AMEND THE 2019 OPERATING BUDGET BY INCREASING THE MARGIN TRANSFER OF \$100,000 TO FUND THE SUBVENTION INCREASE FOR THE AETNA FIRE COMPANY; (D) MOVE \$2 MILLION DOLLARS TO THE ELECTRIC RATE STABILIZATION RESERVE TO BEGIN SETTING ASIDE FUNDING FOR A NEW SUBSTATION; (E) MOVE \$100,000 TO THE ELECTRIC RATE STABILIZATION RESERVE TO BE UTILIZED TOWARDS THE IMPLEMENTATION OF THE ANTICIPATED, REVISED ELECTRIC RATES IN 2020, & (F) ADOPT THE RSA RATE OF -\$0.01206 PER KILOWATT HOUR, EFFECTIVE MARCH 15, 2019.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – 0.

25. 6-E. UPDATE ON STATUS AND MEMBERSHIP OF RENTAL HOUSING AND TRANSPORTATION IMPROVEMENT DISTRICT SUBCOMMITTEES – PLANNING AND DEVELOPMENT DIRECTOR

3:05:25

Ms. Gray discussed the Rental Committee work group and said Council approved its formation on September 24, 2018. The Rental Committee examines issues related to the high demand for student housing because of student growth and the management of rental housing. Ms. Gray announced the Rental Committee also would address the need for non-student rental housing as well as affordable housing. The Rental Committee was asked to develop a list of recommendations that addresses these issues to present to Council for their consideration at a future meeting. Ms. Gray announced she would present the list of proposed participants as described in the memo dated March 4, 2019. There were two representatives from the University (i.e. a decision-maker for the University's Division of Student Life and representatives from the University's Office of the Dean of Students and Public Safety). The complete list of participants starts at the bottom of page 2 of the March 4, 2019 memo.

Mr. Morehead asked if the list of participants already agreed to participate and Ms. Gray confirmed this was the case. Ms. Gray was in the process of contacting a representative for the Friendship House/Newark Empowerment Center.

Mr. Clifton announced the District 2 seat was resolved since he nominated Tina Jackson, who lived on Tyre Avenue. He said Ms. Jackson came out many times to address rental issues and believed she was a welcome addition to the Rental Committee.

Mr. Markham asked if the student representative confirmed to participate on the Rental Committee. Ms. Gray said she was able to confirm their participation this evening; additionally, a representative from the graduate student body confirmed participation. Ms. Sierer said it was difficult for student positions on committees due to graduation. She questioned if the District 1 position was filled and Ms. Gray announced it had not been filled.

Ms. Wallace believed the Rental Committee had a good mix of members and thanked Council and staff for their efforts.

Ms. Sierer opened the discussion to the public.

Catherine Ciferni, District 2, asked Ms. Gray if the Rental Committee included workforce development/moderate income housing. Ms. Sierer thanked Ms. Ciferni for her question and clarified staff would look into this and would get back to her.

Ms. Sierer closed the discussion for the Rental Committee.

MOTION BY MS. WALLACE, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVE THE LIST OF PROPOSED PARTICIPANTS FOR THE RENTAL COMMITTEE AND TO MOVE FORWARD WITH THIS

COMMITTEE TO EXAMINE AND MAKE RECOMMENDATIONS TO COUNCIL ON THE TOPICS AND ISSUES AS DESCRIBED IN THE MARCH 4, 2019 MEMO FROM DIRECTOR GRAY.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – 0.

Ms. Gray announced the list of proposed participants for the Transportation Improvement District (TID) Committee was available in the memo dated March 5, 2019. She said the TID Committee was a DelDOT articulated process and would act as a steering committee to provide guidance and input into this process. Ms. Gray confirmed NCC Department of Land Use representative, Mark O’Boyce, would participate in the committee.

Ms. Sierer questioned if representatives for Districts 1 and 2 were confirmed. Messrs. Clifton and Morehead said representatives from their districts were not confirmed. Ms. Gray hoped the committee could proceed and representatives could be added when they were nominated. She announced both the Rental and TID Committees would have meeting minutes and a website; therefore, whoever came on board would be able to familiarize themselves with the committees’ progress. Ms. Gray said most participants for the TID Committee were confirmed.

Ms. Sierer opened discussion to questions from the table.

Mr. Morehead asked Ms. Gray to confirm the TID Committee’s charge. Ms. Gray said the TID was a regulated entity that was set-up by DelDOT. DelDOT defines a TID as, “A geographic area for the purpose of securing required improvements to transportation facilities in that area by comprehensively coordinating with transportation partners and land-use and transportation decisions.” Ms. Gray stated a TID creates a Transportation Impact Fee (TIF) which equitably distributes the cost of transportation improvements over the development community over the long-term. Ms. Gray announced DelDOT articulated a number of procedural steps in the process. Ms. Gray announced the TID Committee would provide specific input for each milestones throughout the process. She said the TID Committee’s first step was to establish the TID’s boundaries. Mr. Morehead questioned whether the TID Committee would act as a steering committee for the City of Newark as it interfaced with DelDOT. Ms. Gray confirmed this was the case.

Mr. Clifton said he was close to obtaining a nominee for the District 2 position.

There was no public comment.

MOTION BY MS. WALLACE, SECONDED BY MR. MARKHAM: THAT COUNCIL APPROVE THE LIST OF PROPOSED PARTICIPANTS FOR THE TRANSPORTATION IMPROVEMENT DISTRICT (TID) COMMITTEE AND TO MOVE FORWARD WITH THIS COMMITTEE TO EXAMINE AND MAKE RECOMMENDATIONS TO COUNCIL ON THE TOPICS AND ISSUES AS DESCRIBED IN THE MARCH 5, 2019 MEMO FROM DIRECTOR GRAY.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – 0.

26. 6-F. **RESOLUTION NO. 19-__ : A RESOLUTION TO REQUEST AMENDMENTS TO THE NEWARK CITY CHARTER, BEING CHAPTER 152 OF VOLUME 48, LAWS OF DELAWARE, BY REMOVING CORPORATIONS AS ELIGIBLE REFERENDUM VOTERS, UPDATING ITEMS RELATED TO MEETINGS OF COUNCIL AND ELECTIONS TO COMPLY WITH STATE CODE, UPDATING QUALIFICATIONS FOR CITY MANAGER, REDUCING THE REDEMPTION PERIOD FOR SALES TAX AND MAKING A TECHNICAL CORRECTION**

3:16:49

Ms. Schiano read the resolution title into the record.

Mr. Coleman said the resolution included all items that were ready to move forward at this time and were presented per Council’s request. He thought most people in the audience were most concerned with entity voting and removing it from the City Charter. Mr. Coleman was highly confident the removal of entity voting was legal and would follow the proper procedure to remove it from City Charter. He

announced staff could not remove the entity themselves due to the Home Rule process; however, the legislature was able to remove it.

Ms. Sierer opened discussion to questions from the table.

Ms. Wallace asked Mr. Coleman to provide an update regarding what additional outstanding items were and when they would come forward to Council.

Mr. Lawhorn asked for clarification regarding the definition of a natural person as listed in the Resolution. Mr. Bilodeau said a natural person is a real person with a heartbeat; moreover, it was not an artificial entity. He clarified the term did not refer to a naturalized citizen but referred to a natural person. Mr. Lawhorn asked if every person who lived in the City and owned property [in the City] could vote in the referendum. Mr. Bilodeau confirmed this was the case.

Mr. Coleman said staff would provide the following:

1. Bring back additional information on proposed ethics code changes;
2. To look at removing the age requirement for tax credits;
3. To add language for Council to adopt the Fire Protection Fee;
4. To determine whether the City could provide sewer service outside of City limits with concurrence to NCC;
5. Change permitted indebtedness from \$500,000 to \$1 million – potentially more – when it would be directly assessed without a requirement for the referendum;
6. Home-setting tax-credit;
7. Indefinite term for the City Manager, &
8. Changing the City Treasurer's responsibility.

Ms. Sierer asked Mr. Coleman to email the information to Council.

Ms. Wallace asked Mr. Coleman when Council could expect the items to come back and asked if it was feasible for the current legislative session. Ms. Bensley said it was not feasible for all items to come back during the current legislation session. She received previous direction from Council regarding items to address by the end of the year. Mr. Coleman believed at least one item required the City to get concurrence from NCC.

Ms. Sierer opened the discussion to the public.

Nick Wasileski, District 3, said hhe attended an open government conference in Cincinnati, Ohio. The attendees at the conference were from across the U.S. Mr. Wasileski said a judge, law student, reporter and a few members of open government organizations sat at his table. During roundtable discussion, he spoke about Delaware's distinction as the corporate capital of the world and legal entity voting rights in municipalities via property ownership. The attendees at Mr. Wasilewski's table were in disbelief that corporations and LLCs were permitted voting rights in Delaware municipalities. Mr. Wasileski thought it was controversial for an election or referendum to permit companies to vote. He said only a few states allowed legal entity voting. Mr. Wasileski believed Delaware's long-standing history in corporate law influenced the passage of this type of legislation in the 1950s by the General Assembly.

Although Newark's Charter Changes in 1960 seemed to be a good idea at the time, Mr. Wasileski thought corporate influence grew in the past 60-years through lobbying and political action committees. Mr. Wasileski believed the Supreme Court's ruling in *Citizens United v. Federal Elections Commission* opened the floodgates for unlimited spending in political campaigns. Mr. Wasileski believed entity voting added to corporate influence by diluting the votes of registered voters. He thought multiple voting rights discouraged qualified resident voting. Once the final language for Newark's Charter was decided, Mr. Wasileski believed the City had an opportunity to reverse decisions made in the 1960s. Mr. Wasileski thought Newark had an opportunity to prohibit entity voting and enforce the principle of one person one vote. Mr. Wasileski believed Newark could serve as a model for other Delaware municipalities to amend their charters in the future. Lastly, Mr. Wasileski claimed the purchase of high-value real-estate – by secret beneficial owners of LLCs and possible connections to money laundering – have concerned the U.S. Treasury's Financial Crime Investment Network for years. He thought this fact should not be ignored by the General Assembly when charter changes are requested by municipalities that want to stop legal entity voting in Delaware.

Amy Roe, District 4, approved of limiting voting to natural persons, removing corporations and clarifying the limitations on one person one vote. Dr. Roe thought the City Charter also should be amended

to define more-qualified voter means. She believed the limitation should be a person who is registered to vote in the State of Delaware, who also resides within the municipal boundaries of Newark. Because this was not defined, Dr. Roe thought it was vague and confusing. Dr. Roe thought only registered voters should be able to vote. She believed non-registered voters – who would be allowed to vote under the draft – were only those who owned property in the City that were not registered to vote. Dr. Roe said this included non-U.S. citizens and those who are non-residents. She thought the language presented did not require the property owners to be adults or own their property for a certain period of time before the election. Dr. Roe believed it was unconstitutional to limit non-registered voters to only property owners; specifically, Dr. Roe thought it relied upon a level of affluence and real estate ownership to have full voting rights. She thought using affluence or lack thereof to establish conditions for voting directly conflicted with the 14th Amendment, which prohibits such discrimination.

Dr. Roe believed allowing non-registered voters who owned property creates an opportunity where joint property owners could cast multiple ballots per property. She claimed this used affluence and joint-ownership schemes to dilute the votes of registered voters who were citizens of the City of Newark. Dr. Roe thought it was problematic to allow voting rights for non-U.S. citizens; especially, when efforts were not made to account for their legal status. If the City chose to allow non-registered property owners with voting rights, Dr. Roe thought there should be a registration procedure – defined in the Ordinances of the City of Newark – which should be specified in the City Charter. She thought the registration procedure should include how non-resident property owners and non-registered voters were to verify their identity and availability to vote (i.e. presenting the copy of a property deed). According to Dr. Roe, the situation in 2018 – where individual employees of the City made these decisions – should never occur again.

John Morgan, District 1, thought Dr. Roe made good points as he was troubled with the same issues. Dr. Morgan was concerned with the potential of non-U.S. citizens having voting rights because they owned property in the City of Newark. He believed this was a growing trend because of the increased number of international students from wealthy families. Dr. Morgan thought it was a good idea to pass the resolution tonight, keeping in mind the legislature would not draft a bill and rush it through both chambers by the end of the week. He believed staff and Council had enough time to come back and make refinements of the bill at a later Council meeting. Dr. Morgan thought Mr. Bilodeau could think about the issue of voting rights for non-U.S. citizens that owned property in Newark.

Representative Kowalko said he would discuss the questions presented regarding how the proposed Charter Changes would affect non-U.S. citizens voting rights who owned property in the City at the State level. Additionally, he announced he would look into the questions presented in public comment about constitutionality. Representative Kowalko said the legislative body was not in the business of micromanaging Newark's requested Charter changes and would work with them.

Ms. Wallace said Council only discussed the entity voting portion and did not have the opportunity to have this discussion previously. She believed there was room for improvement and agreed with Dr. Morgan that the proposed changes were an improvement to what the City currently had. Ms. Wallace thought people did not have to be registered voters to vote in school board elections, allowing non-citizens to vote. Ms. Bensley said people did not have to be registered voters to vote in school-board elections; however, they had to be U.S. citizens, must be at least 18-years of age and must provide proof of residency in the school district.

Ms. Sierer believed Council should move forward with what they had in order to have something in place for the legislative session. She asked Mr. Bilodeau to perform research regarding some of the ideas from public comment, rather than making changes on the fly tonight.

Mr. Clifton agreed with Ms. Sierer and thought Council should move forward. He supported moving forward with the resolution with the caveats addressed by Representative Kowalko and Dr. Roe. Mr. Clifton emphasized it was important to move forward with the resolution because of the timing with the legislature.

Mr. Morehead thought the fix Council desired would be very direct as it would provide "All registered voters within the City of Newark shall be entitled to one vote," eliminating the rest of the subsequent language. He thought this would get rid of the option for everyone else who happened to own property or did not own property and believed it would eliminate the constitutional question. Ms. Wallace thought it would be necessary to edit the underlined portion of the resolution. Mr. Morehead expressed this would promote qualified voters, which he interpreted as registered voters. Ms. Bensley confirmed this was the case. Ms. Sierer asked Mr. Bilodeau if this was considered a substantial change. Mr. Bilodeau said it was a resolution and would be considered a substantial change. Discussion at the

table continued and determined Council had the ability to make the proposed changes because it was a resolution.

Representative Kowalko said removing the underlined portion would allow LLCs to remain as designated voters. He believed additional language was required to explicitly define the resolution's intent in the Ordinance. Mr. Morehead thought it was best to move forward with the resolution as presented and amend it later. Mr. Hamilton asked when it was possible to discuss the outstanding issues. Mr. Coleman believed Representative Kowalko would vet the changes with his legal team and thought it would be best to make changes after they heard back from him. Mr. Coleman asked if the Resolution would come back to Council if the legal team found changes that needed to be made. Representative Kowalko said he would find out the information and would get back to him.

MOTION BY MS. WALLACE, SECONDED BY MR. MARKHAM: THAT COUNCIL ADOPT THE PROPOSED RESOLUTION AS PRESENTED.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.
Nay – 0.

(RESOLUTION NO. 19-E)

Ms. Sierer asked the audience to indicate whether they attended the meeting for the 62 North Chapel Street Development project. She determined it was not necessary to move the item up.

27. 7. RECOMMENDATIONS ON CONTRACTS & BIDS:

- A.** Recommendation to Award Contract No. 19-03 – Water Treatment Plant Chemicals

3:39:01

(Secretary's note: Ms. Sierer left the Council Chamber at 10:39 p.m.)

Mr. Filasky read the recommendation into the record.

There were no questions from Council or the public.

MOTION BY MR. MOREHEAD, SECONDED BY MR. HAMILTON: TO AWARD CONTRACT NO. 19-03 – WATER TREATMENT PLANT CHEMICALS – AS OUTLINED IN THE FEBRUARY 28, 2019 STAFF RECOMMENDATION.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Wallace.
Nay – 0.
Absent – Sierer.

28. 7-B. RECOMMENDATION TO WAIVE BID REQUIREMENTS TO PURCHASE ELEVEN (11) 12kV SOLID DIELECTRIC RECLOSERS

3:40:12

Mr. Patel read the recommendation into the record.

There were no questions from Council or the public.

MOTION BY MR. MOREHEAD, SECONDED BY MR. LAWHORN: THAT COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF ELEVEN (11) 12 kV SOLID DIELECTRIC RECLOSERS FROM EATON OF FRANKSVILLE, WISCONSIN IN THE AMOUNT OF \$263,004.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.
Nay – 0.
Absent – Sierer.

29. 7-C. RECOMMENDATION TO WAIVE BID REQUIREMENTS TO PURCHASE ONE AERIAL LIFT TRUCK FROM BELTWAY INTERNATIONAL, LLC IN ASSOCIATION WITH THE NATIONAL JOINT POWERS ALLIANCE

3:41:31

Mr. Patel read the recommendation into the record.

There were no questions from Council or the public.

MOTION BY MS. WALLACE, SECONDED BY MR. HAMILTON: THAT COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK TO PURCHASE ONE AERIAL LIFT TRUCK FROM BELTWAY INTERNATIONAL, LLC AT THE COST OF \$201,144, UTILIZING NJPA CONTRACT NO. 081716-NVS.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Wallace.

Nay – 0.

Absent – Sierer.

30. 7-D. RECOMMENDATION TO WAIVE BID REQUIREMENTS TO UTILIZE STATE OF DELAWARE AND NJPA/SOURCEWELL CONTRACTS FOR THE PURCHASE OF REPLACEMENT EQUIPMENT

3:42:42

Mr. Spadafino read the recommendation into the record. He informed the audience the replacement would be for three of the City's mowers and one landscape tractor.

Mr. Markham opened discussion to the table.

Mr. Morehead questioned whether the items were purchased at once and if it was the whole fleet. Mr. Spadafino said the replacement would be for the City's mowing operations and expressed there was another Jacobson mower. Mr. Morehead stated City bought its trash trucks all at once which meant they would wear out at once. He thought this was a huge hit for the City when it was time to replace them. Mr. Morehead asked if the proposed items would have different lifespans. Mr. Spadafino confirmed the equipment had different life spans and said they were listed in the CIP.

There was no public comment.

(Secretary's note: Ms. Sierer returned to Council Chambers at 10:44 p.m.)

MOTION BY MR. MOREHEAD, SECONDED BY MR. CLIFTON: THAT COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK TO UTILIZE STATE OF DELAWARE AND NJPA/SOURCEWELL AWARDED CONTRACTS FOR THE PURCHASE OF REPLACEMENT OUTLINED IN THE MEMO DATED MARCH 1, 2019.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.

Nay – 0.

31. 8. FINANCIAL STATEMENT: (Ending December 31, 2018)

3:45:00

Mr. Del Grande said the total operating expenses in total were \$40,000 under the budget for the year (2018). This reflected no overall change from November 2018. Utility purchases were \$259,000 under budget, offsetting the \$219,000 shortfall in the City's other operating accounts. Mr. Del Grande said the operating deficits in the expense lines were due primarily to expenses that were reimbursed by outside parties, consisting of police pay-jobs and electric work performed on the STAR campus.

Total operating revenues were \$3.8 over budget, with many positive variances in the City's revenue lines as a result of the new Storm Water Utility at \$700,000. Sewer fees were mostly passed back to NCC to cover the 12% increase of \$360,000. Utility fees – the work at STAR campus and other work – equaled \$550,000. Mr. Del Grande said \$815,000 was due to the Real Estate Transfer Tax (RTT). Also, permits were expected to be a part of the \$1.3 million dollars over the expected budget.

Mr. Del Grande announced December's recorded lodging tax was \$43,000, with seven out of 9 hotels paying the new tax on time. The recorded lodging tax for January 2019 was \$47,000, with the same seven hotels. Mr. Del Grande estimated hotel tax for February 2019 would be 5% higher than the month of January.

December's overall current net surplus was \$3.7 million dollars, primarily due to revenue lines exceeding budget expectations. December's cash balance at the end of the month was \$37.1 million, which includes \$22.1 million in the City's cash reserve account with \$15 million in operating cash.

Electric regulatory liability carried a credit balance of \$4.6 million, which was included in the 2019 RSA. The CAFR was on track for completion by June 30, 2019 in order to meeting the requirements per the GFOA. Mr. Del Grande said NCC Executive Matt Meyer invited Mr. Del Grande to serve on Wilmington's water, sewer and stormwater advisory board. He expressed this was a NCC appointed position and was asked to serve on behalf of the county. Mr. Del Grande said Newark would indirectly benefit from this since 5% of the flow went to the City of Wilmington through NCC. Tomorrow, March 12, 2019, NCC was hosting a presentation at their 2:00 p.m. finance committee meeting on the Senior Exemption program. Mr. Del Grande said the event would take place at 8th and French Street. He expressed the finance committee meetings were audio recorded and people would be able to listen to them if they were unable to attend. Mr. Del Grande informed the audience the Senior Exemption Program recently went to a 10-year residency requirement.

Mr. Del Grande thought NCC's Council meeting scheduled for March 12, 2019 was pertinent for the City since they would vote to start a county reassessment reserve account. He believed NCC estimated the reassessment would cost about \$26 million and looked to create a reserve account to begin providing seed money for that expense.

Ms. Sierer opened discussion questions from the table.

Ms. Wallace thought it appeared the City did a better job of estimating electric sales than in previous years. Mr. Del Grande confirmed this was the case.

Mr. Hamilton congratulated Mr. Del Grande for his selection to the committee.

Mr. Morehead questioned if NCC was setting aside \$23 million. Mr. Del Grande said NCC estimated the cost [of the survey/reassessment] to be \$26 million and believed they wanted to set aside \$3 to get it started. Mr. Morehead questioned whether the City would be required to contribute financially to this effort. Mr. Del Grande clarified the City's residents paid for the assessment services as a part of their tax deal. He announced NCC could increase taxes after they were recessed by 15%. Mr. Del Grande believed the State code changed about 10 years ago to allow this. Mr. Morehead thought the City would not be part of the original \$26 million and believed everyone would pay for it through taxes. Mr. Del Grande confirmed this was the case, unless NCC found it from their reserves. Mr. Morehead asked if the \$3.7 million surplus would go back to the City's capital reserves. Mr. Del Grande said the \$3.7 million would go back to the fund they were created from. He stated the City's requirements for the Capital Fund were considered to ensure sufficient funding to cover the City's capital expenses.

Mr. Morehead asked if the funds were prorated or if they went into the accounts that needed it most. Mr. Del Grande said the funds were prorated and went back to where they came from. Mr. Morehead questioned if the City had a regulatory liability in the RSA of \$4.6 million. Mr. Del Grande said the number was slightly different because accountants used a 13th month and Newark's year-end closing adjustments were based on this.

Mr. Markham thought the reassessment fee in previous years was closer to \$15 million. Mr. Del Grande confirmed cost of reassessment increased. Mr. Markham asked for clarification on the Green Energy Fund and believed recent conversations mentioned the Newark Senior Center and others. Mr. Del Grande said funding in the amount of \$7,500 was in the pipeline for the Green Energy Fund which arrived in January (2019). Mr. Del Grande stated the \$7,500 was not on this evening's report since it applied to January's report. He thought no additional items were pending. Mr. Del Grande said funding was earmarked for the George Wilson Center's (GWC) HVAC replacement. He announced staff was close to sending out an RFP for Municipal Hall and the GWC. Mr. Markham thought \$128,000 were earmarked for a solar project at McKees Solar Park and Mr. Del Grande confirmed this was the case. Mr. Markham thought it might be time for a checkup on the solar panels at McKees as he believed the last one occurred four or five years ago. Mr. Del Grande said there were a few minor issues with the solar at McKees in 2018. Mr. Coleman said they had an inverter failure which knocked a panel out. Mr. Markham thought it would be easy to look at the panels because everyone had a micro-inverter. Mr. Coleman confirmed this

was the case. He believed most of the issues with the panels were attributed to the fact it rained a lot in 2018.

There was no public comment.

MOTION BY MS. WALLACE, SECONDED BY MR. MOREHEAD: TO ACCEPT THE FINANCIAL STATEMENT ENDING DECEMBER 31, 2018 AS PRESENTED.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.

Nay – 0.

32. 9-A. BILL 19-01 – AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF NEWARK, DELAWARE, BY REZONING FROM BL (BUSINESS LIMITED) TO BB (CENTRAL BUSINESS LIMITED) 0.471 ACRES LOCATED AT 62 NORTH CHAPEL STREET (SEE ITEMS 10-A AND 10-B)

3:54:35

Ms. Sierer said items 9-A, 10-A and 10-B would be discussed simultaneously. She asked Council to keep in mind they would vote individually and needed to state their reasons for each item.

Ms. Schiano read agenda items 9-A, 10-A and 10-B into the record.

MOTION BY MR. MOREHEAD, SECONDED BY MR. MARKHAM: THAT THIS BE THE PUBLIC HEARING AND SECOND READING FOR ITEMS 9-A, 10-A & 10-B.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.

Nay – 0.

Ms. Gray said she would speak about the project description, meeting materials and Planning Commission and staff's recommendations. The applicant requests the rezoning of the property at 62 North Chapel Street for 0.471 acres from BL to BB. Additionally, the applicant requests a major subdivision with site plan approval to construct a four-story apartment structure with parking on the ground floor and 18 two-bedroom apartment units. The applicant also requests a Special Use Permit (SUP) for the 18 proposed apartment units in the BB zoning district as required by City Code. Ms. Gray said Council had the following materials in their meeting packets:

1. The Ordinance for amending the zoning map;
2. The subdivision agreement and resolution for major subdivision and site plan approval;
3. The Planning and Development Department's summary;
4. The Planning and Development Department's report, which contains 53 pages dated November 27, 2018 with the attachments including subdivision plans, color renderings, zoning requirements, site maps, site photos, rezoning map, development and density data comparison table, site plan approval documents, excerpts from the Comprehensive Development Plan, Subdivision Advisory comments and the Planning Commission's report;
5. The Planning Commission motions;
6. 11x17 architectural renderings, &
7. A full set of project plans.

Additionally, Council was provided with a copy of the December 4, 2018 verbatim Planning Commission meeting minutes as part of the January 14, 2019 Council packet. Ms. Gray said the materials were available online. Ms. Gray said the project's current conditions were an office building and announced the proposal includes the rezoning with parking on the first floor. This was an allowed use in the BB zoning district. She clarified the applicant sought approval through the site plan approval provision of the City Code. Under this provision, the applicant requested one variance from the building set-back line. Ms. Gray announced the applicant sought a variance of 11.5" from the set-back. She expressed the project was within one of the four areas that was under current consideration for encouraging redevelopment for multi-family student housing. The Design Committee reviewed this project and indicated in their report that it met their guidelines and specifically stated, "The building, architectural style and color echoes that of an adjacent building. Architectural elements of the gables are attractive as well as good articulation of the building facades." Ms. Gray said the Design Committee's recommendation

was reviewed by the Planning Commission at their meeting on December 4, 2018 and a report was filed after the December 4, 2018 Planning Commission packet. She announced the report was reviewed by the Planning Commission at the hearing and was included in their meeting minutes.

Ms. Gray expressed the Subdivision Advisory Committee consists of an internal work group and was indicated by City Code. The working group's recommendations and subsequent revisions were included in the Planning and Development report dated November 27, 2018 and incorporated in the Subdivision Advisory Agreement. Planning and Development staff recommended approval of the major subdivision, site plan approval and SUP and rezoning. This recommendation was based on the findings that the proposed plan meets the City of Newark Code, utilizing the site plan approval provision of the City Code. Ms. Gray announced the project conforms with the Comprehensive Development Plan V, which calls for mixed-urban development for this parcel and should not have negative impacts on adjacent or nearby properties. Ms. Gray said the Planning Commission made two motions where they made recommendations. The Planning Commission's first recommendation was that City Council approve the rezoning of this property and the motion passed with a 5:2 vote.

Ms. Gray said the second motion was for the major subdivision with site plan approval – as shown in the major subdivision and site plan approval plan – with the Subdivision Advisory Committee conditions as outlined in the Planning and Development report dated November 27, 2018. This motion passed with a 4:3 vote. Ms. Gray said the Planning Commission did not make a recommendation on a SUP since the parcel is less than one-acre. She announced City Code requires recommendations for SUP's for parcels that were one-acre or more. Ms. Gray expressed she would let Mr. Prettyman, applicant, make his presentation.

Mr. Clifton thought previous discussions occurred that mentioned having AETNA look at the plans. He asked if AETNA or the Fire Marshall made any comments. Ms. Gray said the protocol for reviewing plans when interfacing with AETNA was outlined in the Subdivision Advisory Committee provision in the City Code. According to the Code, Staff and the Fire Marshall are responsible for the review and comment for Fire Code. Ms. Gray expressed plans were sent out to the Subdivision Advisory Committee members and AETNA and NPD Captain VanCampen. She said Tom Fruehstorfer would coordinate with AETNA on any comments they made. Since AETNA was not part of the Subdivision Advisory Committee, there comments were not official in the record. Ms. Gray restated staff would coordinate with AETNA to ensure they did not have concerns with the plans as proposed.

Hal Prettyman, applicant, said his wife Ruthann Prettyman, son Ben Prettyman and Allan Hill from Hillcrest Associates were with him this evening. He announced the current building was built in 1972, with 12,000 square feet, 16 office suites, 6 bathrooms and 30 onsite parking spaces. Mr. Prettyman said there were no windows or sprinkler systems in the current building. He announced there were no efficient cooling, heating and plumbing systems in the current building. Additionally, Mr. Prettyman said there were no bike racks and the building had limited ADA access. Mr. Prettyman expressed the parcel currently had no storm water management system for either quality or quantity and announced the stormwater currently ran away from North Chapel Street towards the rear of the site. He requested for the property to be rezoned from BL to BB because apartments were permitted in the BB zone. The adjacent parcel, Chapel House, is zoned BB and was approved in 2015. Mr. Prettyman said density in BB is 50-units per acre and the parcel was .471 acres. He believed this equates to 24-units and proposed 18-units. Mr. Prettyman restated the request was for a major subdivision with site plan approval and believed the project met all the requirements in City Code.

He requested relief from only one section of the Code, the front set-back area requirement. Mr. Prettyman said section 32-18(d)5 of the City Code permitted a set-back of 20-feet and the plan had 8.5 feet. He emphasized the project met all the other requirements of City Code. Additionally, Mr. Prettyman claimed the set-back would be the same as Chapel House. Mr. Prettyman expressed the project's set-back would be further than an apartment building that currently was under construction in that area. He believed the proposed development would bring the property up to current stormwater standards for both quality and quantity. Mr. Prettyman announced there was no requirement for open space within the BB zoning district and the plan will have 17.8% open space. He expressed the plan would exceed landscaping requirements and bike racks would be provided. Mr. Prettyman announced the plan was a four-story building with 100% of the first floor dedicated to parking. Because of the parking, Mr. Prettyman said the City Code permitted him to build one-story. Additionally, it exceeded parking requirements with 30 covered spaces and 10 open spaces. Mr. Prettyman reiterated the Design Committee reviewed the project and gave it a positive recommendation. He announced the project would include a full sprinkler system in it and would be ADA accessible with an elevator that goes to the fourth floor.

Mr. Prettyman said the project would include energy efficient heating, cooling and plumbing systems and the building would meet or exceed the certified levels for the LEED Green Program. Mr. Prettyman noted the building was a Rick Longo design, which integrates elements of traditional colonial and federal architecture and a hint of modernism. This was accomplished through the use of light materials, colors and related features to blend into the neighborhood. Mr. Prettyman felt the building's architecture would complement the surrounding area. He pointed out all materials were used on all sides of the building and was not a façade on the front of the building. Mr. Prettyman believed square buildings were easy to build; however, it was harder to build buildings with offsets like the project. He thought the offsets on the project gave the building its appeal. He said every parcel except for three on the area renderings were a combination of commercial, student-rental or both uses. Mr. Prettyman thought the adjacent property closely aligned with the proposal. He believed students wanted to be in the area and thought the project was a good match for the area. He expressed the property was located in the Down Town District. Mr. Prettyman restated the project aligned with Comprehensive Plan V. He announced the proposed plan conforms to the Comprehensive Development Plan V, which called for mixed-urban use.

Mr. Prettyman said Allan Hill of Hillcrest Associated would discuss traffic. Mr. Hill wanted to address traffic since there was an error in the plan which where the building was depicted as 4,000 square feet of office space. He clarified the building actually was 12,000 square feet of office space, which addressed previous questions as to why traffic counts went up for residential when it was previously commercial. He expressed North Chapel Street was maintained by DelDOT which required the project to fill out a DelDOT application. Mr. Hill said traffic movements were included on the plan as part of the DelDOT's application and emphasized the proposed numbers on the plan were correct; however, the numbers were 86 trips per day lower on the existing conditions. When the correction was applied to the traffic counts, Mr. Hill said traffic was reduced by 12 trips a day. Mr. Hill thought it was important to emphasize traffic flow was reduced in the proposal.

Mr. Prettyman thought it was important to note an ITE trip generation manual was used to determine traffic calculations. He said there was nothing in the manual that provided a model where a 100% of residents in a development could walk to class, work, grocery stores and a Newark transit hub and other locations. Mr. Prettyman believed the proposed development would have a vacancy rate of 50% for five months out of the year. He thought no one would claim traffic was bad at the property located on South Chapel Street. Mr. Prettyman drove past the proposed building every day and rarely observed people coming out of it.

In year one of construction, Mr. Prettyman believed lien taxes and stormwater fees would remain the same. The review fees from the Building Department would be \$5,000, with Building Permit fees at a total of \$28,800. Mr. Prettyman announced this estimation was based on a project that cost \$3.5 million. Mr. Prettyman said Parks and Recreation would receive \$8,100, with the total income at \$43,563. Land taxes were projected to increase to \$7,286 which was based off previous developments the applicant completed already. By reviewing electric bills for 18 apartments with comparable buildings, Mr. Prettyman projected the monthly electric cost for each apartment would be as follows: $\$120/\text{month} \times 18 \text{ apartments} \times 12 \text{ months/year} = \$25,920$. Mr. Prettyman announced water and sewer bills were calculated from information available on the City's website and would be as follows: $\$158/\text{month for water and sewer} \times 18 \text{ apartments} \times 12 \text{ months/year} = \$34,128$. He expressed the total amount would equal \$67,838 every year going forward.

Currently, if nothing was done to the building, Mr. Prettyman said the tax revenue for the City was far less than the proposed project. Mr. Prettyman believed a significant amount of money would go to the City from the proposed project. In terms of site plan development, Mr. Prettyman said the project reflected distinctiveness and excellence of site, arrangement and design. He thought the incorporation of open space was beneficial as it was technically not a requirement in BB zoning. Mr. Prettyman expressed the project was required to have 36 parking spaces and the project would provide 40 parking spaces. He credited Hillcrest Associates and Rick Longo for their excellence in design and landscaping. Mr. Prettyman believed the project closely aligned with the adjacent parcels and restated student rental are prominent in the area. Mr. Prettyman thought the project had many community benefits. He announced the community would get a new building of an excellent architecture at a gateway of Newark. Mr. Prettyman said another community benefit was the high-quality construction with high energy-efficient use that met LEED requirements. He restated the proposed building would be fully sprinklered, increasing safety for residents and first responders. Mr. Prettyman believed the property conformed to the stormwater standards for both quality and quantity. He reiterated the project would generate more tax revenue, plus 18 water, sewer and electric bills monthly. Mr. Prettyman emphasized the project would be ADA compliant with bike racks included.

Ms. Sierer opened discussion to questions from the table.

Mr. Markham thought the project could not be built in BC zoning and Ms. Gray confirmed this was the case. He asked if the building received a height bonus since the parking was on level one, which Ms. Gray confirmed. Mr. Markham questioned whether the entrance to the building from would change; specifically, if entrance could be obtained on New Street or to the back-alley way behind the project. Mr. Prettyman said the entrance belonged to him and there would be no change since the entrance was an easement to Chapel House. Mr. Markham clarified he was interested in improvements to North Chapel Street since it was a two-lane road with parking on one side. He thought traffic was a mess during rush hour. Mr. Markham questioned what the highest building was on North Chapel Street. Ms. Gray believed the highest building on Chapel Street was three-stories and said she would look into this further. Mr. Markham's biggest concern with the project was that it might be too tall for the street. He was concerned that the project's four-story height would become the new norm on North Chapel Street.

Mr. Clifton said the applicant mentioned earlier there was no benchmark for the project. Mr. Hill confirmed this was the case and stated they used a generic apartment calculation which did not distinguish for intown or the proposed student use. Mr. Clifton thought the traffic count for project might be 50-70% too high when compared with comparable apartment buildings in the City. Mr. Hill agreed with Mr. Clifton's statement and expressed they did not perform traffic counts to prove it. Mr. Clifton commended the project's two-bedroom design per unit considering the University cut back on student housing options. Unlike other BB projects, Mr. Clifton said the first floor of the project was designated for parking and would not include businesses. Mr. Hill confirmed this was the case. Mr. Clifton questioned if the elevator went to the parking garage itself and thought it would be accessible by card for safety. Mr. Hill announced the elevator and parking garage would be access controlled.

Mr. Lawhorn thought student traffic was different from others and he believed students did not travel as often as others. He believed the idea of the walkable and bikeable community would encourage students to walk to work or school. When students needed to drive, Mr. Lawhorn thought they would choose times with less traffic. Overall, Mr. Lawhorn thought having higher density down town was a benefit for traffic in the City. Mr. Lawhorn thought higher density development might encourage more students to live in the City while increasing walkability and decreasing traffic. He believed it was a good idea to have higher density student housing in areas that were already heavily dominated by students. Mr. Lawhorn understood concerns related to the building's height; however, he believed areas where there were a lot of students were ideal places for buildings like the proposed project. He thought it was appropriate to make down town areas high density, as it would help decrease traffic and would go along way to fill the student demand.

Mr. Morehead went to the site as he was curious about the dimensions. He assured the audience the proposed building was no closer to the sidewalk or street than the building immediately next to it. Mr. Morehead approved of the project and thought it was placed appropriately. He believed the building was in the right place to live as a resident since the units were two bedrooms and were close to Newark Shopping Center. Mr. Morehead thought the project did not push any limits with the exception of the front set-back. He approved of the project's ADA accessibility in addition to the fact there would be enough bike racks. Mr. Morehead liked the project and did not think it was out of character for the neighborhood. He planned to support the project and thought it was an improvement.

Ms. Wallace said she liked and disliked things about the project. She appreciated the project's two-bedroom design and thought the City needed more apartments like this. Ms. Wallace thought there was a missed opportunity for retail or office on the ground floor and thought it would be nice to have an extension of retail on North Chapel Street. She worried about the height of the project as she thought it would set a precedent going forward. Ms. Wallace asked Messrs. Prettyman and Hill to share presentations with Council ahead of time so they would have time to review it prior to the Council meeting. Mr. Hill said he would try to provide presentations to Council ahead of time.

Ms. Sierer opened the discussion to the public.

Catherine Ciferni, District 2, was worried of the canyon-like aspect of the project as she was aware the other side of Chapel Street by Santa Fe had numerous accidents. Ms. Ciferni questioned whether traffic calming could be done and thought it was narrow street for the increased population. She asked why the rendering for the first floor looked like a shop when it was designed for parking. Ms. Ciferni was most concerned with the width of the sidewalk and questioned whether it was ADA accessible. She said Fresenius Dialysis operates within the Newark Shopping Center and was very concerned it would clog traffic with more density and would not be wide enough for paratransit.

Jean White, District 1, believed the current building deserved to be replaced. However, she urged Council to turn down the project because it was too massive and too high for the location. Ms. White

thought the important view did not come from Cleveland Avenue under the railroad bridge and believed it came from Main Street in another direction. She thought the project should be the same height as Chapel House at 52 North Chapel Street. Ms. White believed the applicant's rendering did not accurately reflect the project's true height. She announced the Planning Commission barely passed the project at a 4:3 vote. Ms. White thought site approval was not a by-right plan and thought Council had the right to turn it down. She went to the site and compared it to 52 North Chapel and stated there were 26 parking spaces underneath it. Ms. White thought the project should be three-stories and felt very strongly about it. She announced there was not an easy way to access the back-parking lot. Ms. White thought the project would set a precedent for four-story buildings which she said would be absolutely terrible.

Tom Dennis said he visited the last few Council meetings and noted a new theme of high-density and accommodated parking. He believed the new theme for three-story housing shifted to four-story housing because it was necessary to accommodate parking for the apartments. Mr. Dennis wanted to ensure people knew what they were doing and thought it was similar to the Hyatt Hotel on Main Street.

Ms. Sierer brought discussion back to the table for further deliberation from Council.

Mr. Morehead noted Planning Commission discussed minimizing the number of driveways. He pointed out the proposed building and Chapel House shared a driveway, which effectively took a driveway off the road. Additionally, Mr. Morehead thought the project could have a larger footprint; however, the driveway was on Mr. Prettyman's property and the building next door got the larger footprint.

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: TO APPROVE THE REZONING OF 0.471 ACRES AT 62 NORTH CHAPEL STREET FROM THE CURRENT BL (BUSINESS LIMITED) ZONING TO BB (CENTRAL BUSINESS DISTRICT) ZONING AS SHOWN IN THE ON THE PLANNING AND DEVELOPMENT DEPARTMENT EXHIBIT A DATED NOVEMBER 27, 2018.

Ms. Sierer asked Council to vote individually and Mr. Bilodeau reminded those who would vote to support the motion to state it was consistent with the Comprehensive Plan.

Mr. Markham said he would not support the rezoning as he believed it would have a negative impact on the adjacent and nearby properties.

Mr. Clifton announced he would support the plan because he thought it was in keeping with the Comprehensive Plan. He did not believe it would adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use.

Mr. Lawhorn said he would support the project for reasons previously stated by Mr. Clifton.

Mr. Morehead announced he would support the project and believed it met the Comprehensive Development Plan.

Ms. Wallace said she would support the rezoning for reasons previously stated by Mr. Clifton.

Mr. Hamilton announced he would support this decision for reasons previously stated by Mr. Clifton.

Ms. Sierer said she would support the project for reasons previously stated by Mr. Clifton.

MOTION PASSED. VOTE: 6 to 1.

Aye – Clifton, Hamilton, Lawhorn, Morehead, Sierer, Wallace.

Nay – Markham.

(ORDINANCE NO. 19-06)

33. 10. RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING & DEVELOPMENT DEPARTMENT:

- A.** Request of Chapel North, LLC for the Major Subdivision with Site Plan Approval of 0.471 Acres in Order to Demolish the Existing Structure and Construct One Four-Story Apartment Building with Parking on the First Floor and 18 Two-Bedroom Apartments on the Remaining Floors at the Property Located at 62 North Chapel Street

4:48:50

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: TO APPROVE THE REQUEST OF CHAPEL NORTH, LLC FOR THE MAJOR SUBDIVISION WITH SITE PLAN APPROVAL OF 0.471 ACRES IN ORDER TO DEMOLISH THE EXISTING STRUCTURE AND CONSTRUCT ONE FOUR-STORY APARTMENT WITH PARKING ON THE FIRST FLOOR AND 18 TWO-BEDROOM APARTMENTS ON THE REMAINING FLOORS OF THE PROPERTY LOCATED AT 62 NORTH CHAPEL STREET.

MOTION PASSED. VOTE: 6 to 1.

Aye – Clifton, Hamilton, Lawhorn, Morehead, Sierer, Wallace.

Nay – Markham.

(RESOLUTION NO. 19-F)

34. 10-B. REQUEST OF CHAPEL NORTH, LLC FOR A SPECIAL USE PERMIT FOR 18 APARTMENTS IN THE BB ZONE AT THE PROPERTY LOCATED AT 62 NORTH CHAPEL STREET

4:49:30

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: TO APPRIVE THE REQUEST OF CHAPEL NORTH, LLC FOR A SPECIAL USE PERMIT FOR 18 APARTMENTS IN THE BB ZONE AT THE PROPERTY LOCATED AT 62 NORTH CHAPEL STREET.

Mr. Markham said he would not support the SUP as he believed it would have a negative impact on the adjacent and nearby properties.

Mr. Clifton supported the request for reasons stated in the Planning Department Report.

Mr. Lawhorn supported the request for reasons stated in the Planning Commission Report.

Mr. Morehead announced he would support the request for reasons stated in the Planning Department Report; specifically, under the SUP items a, b and c on page 6.

Ms. Wallace said she would support the request for the reasons stated by Mr. Morehead.

Mr. Hamilton announced he would support the request for the reasons stated by Mr. Morehead.

Ms. Sierer said she would support the request for reasons stated by Mr. Clifton.

MOTION PASSED. VOTE: 6 to 1.

Aye – Clifton, Hamilton, Lawhorn, Morehead, Sierer, Wallace.

Nay – Markham.

Ms. Sierer asked for a motion to extend the Council meeting.

35. MOTION BY MR. MOREHEAD, SECONDED BY MR. CLIFTON: TO EXTEND THE COUNCIL MEETING TO DISCUSS ITEMS 9-B AND 9-E.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.

Nay – 0.

36. 9-B. BILL 19-03 – AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, CODE OF THE CITY OF NEWARK, DELAWARE, BY AMENDING MANAGEMENT POSITIONS, TITLES AND PAY GRADES RELATED TO COMMUNICATIONS AND HUMAN RESOURCES

4:52:09

Ms. Schiano read Bill 19-03 into the record.

MOTION BY MR. MOREHEAD, SECONDED BY MS. WALLACE: THAT THIS BE THE PUBLIC HEARING AND SECOND READING FOR BILL 19-03.

Mr. Coleman said Bill 19-03 would codify the changes discussed previously at Council, combining the two communications position into one position and adjusting the pay grade. When the Deputy City Manager position was rebranded, the title changed to Human Resources and Labor Relations Manager.

He clarified the title change created differentiation due to internal communication issues. Mr. Coleman said the position closely aligned with the Human Capital Manager.

Mr. Lawhorn was concerned about the communications position as one position was eliminated. Since the communications employees left, Mr. Lawhorn said there was a significant drop-off in communications. He compared the Chief Communications Officer position to the State's position and did not understand why the City lowered the position's pay grade. He announced the State position offered a broad range of compensation from \$55,000-\$83,000 as opposed to Newark's position which maxed out at \$73,000. Mr. Lawhorn was concerned Newark's position was \$10,000 less than the State and thought it was a disadvantage. He thought there were two methods to put a rate in for a position (1) to look at rates among Newark's current staff and (2) to look at competitive jobs of the same nature.

There was no public comment.

MOTION BY MS. WALLACE, SECONDED BY MR. CLIFTON: TO ADOPT AN ORDINANCE AMENDING CHAPTER 2, ADMINISTRATION, CODE OF THE CITY OF NEWARK, DELAWARE, BY AMENDING MANAGEMENT POSITIONS, TITLES AND PAYGRADES RELATED TO COMMUNICATIONS AND HUMAN RESOURCES.

MOTION PASSED. VOTE: 6 to 1.

Aye – Clifton, Hamilton, Markham, Morehead, Sierer, Wallace.

Nay – Lawhorn.

(ORDINANCE NO. 19-07)

37. 9-E. BILL 19-06 – AN ORDINANCE AMENDING CHAPTER 31, WEAPONS, CODE OF THE CITY OF NEWARK, DELAWARE, BY AMENDING THE CODE SECTIONS REGARDING SWITCHBLADES TO COMPLY WITH DELAWARE LAW

4:57:24

Ms. Schiano read Bill 19-06 into the record.

MOTION BY MS. WALLACE, SECONDED BY MR. MARKHAM: THAT THIS BE THE PUBLIC HEARING AND SECOND READING FOR BILL 19-06.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.

Nay – 0.

Mr. Bilodeau said Bill 19-06 would make the City's switchblade ordinance similar to the State's switchboard ordinance. He announced the NPD supported this amendment.

There were no comments from Council or the public.

MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: TO APPROVE BILL 19-06.

MOTION PASSED. VOTE: 7 to 0.

Aye – Clifton, Hamilton, Lawhorn, Markham, Morehead, Sierer, Wallace.

Nay – 0.

(ORDINANCE NO. 19-08)

**38. 11. ITEMS SUBMITTED FOR PUBLISHED AGENDA:
A. Council Members: None**

39. 11-B. OTHERS: None.

40. Meeting adjourned at: 12:00 a.m.

Renee K. Bensley, CMC
Director of Legislative Services
City Secretary

/wcp